FUNDACIÓN INTERNACIONAL BALTASAR GARZÓN

MARCH 2026

Universal Jurisdiction in Argentina

A Legal Tool from the Global South Against International Crimes

FIBGAR

10 ANIVERSARIO

Publication Date: March 2026

FIBGAR Report

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INTRODUCTION

This report offers a comprehensive analysis of the exercise of the principle of universal jurisdiction in the Argentine Republic, addressing both its legal and regulatory framework and its practical development through various judicial proceedings of international relevance. In particular, the document examines the evolution of this principle in international law and its reception within the Argentine legal system, as well as the jurisprudential interpretations that have allowed its application in investigations related to gross human rights violations and international crimes.

Universal jurisdiction constitutes a principle of international law that enables States to investigate and prosecute certain international crimes regardless of where they were committed, the nationality of the victims or the alleged perpetrators, and even in the absence of direct links to the State exercising jurisdiction. This legal mechanism emerges as a response to the need to combat impunity for crimes that, due to their extreme gravity, affect the international community as a whole, such as genocide, crimes against humanity, war crimes, or torture.

In this context, **Argentina** has acquired a particularly prominent role in the exercise of universal jurisdiction over the last decades, positioning itself as one of the most active countries outside of Europe in opening investigations based on this principle. Despite not having specific legislation that exhaustively regulates its application, Argentine federal courts have developed a solid jurisprudential construction that has allowed progress in cases of great international significance, linked to contexts of gross human rights violations in different countries.

Based on this framework, the report analyzes the current state of universal jurisdiction in the Argentine justice system through the study of some of the most relevant cases currently before its courts, as well as various ongoing complaints and investigations. The objective is to offer an updated view of the scope, challenges, and tensions facing the application of this principle in the contemporary scenario, highlighting both its potential as a tool for the

fight against impunity and the legal, political, and procedural obstacles that condition its development.

HISTORICAL DEVELOPMENT

The practice of universal jurisdiction, as we know it today, expanded between the second half of the 20th century and the dawn of the 21st century. Despite this, its origins go far beyond the past century. For a very long time, the international community has studied the possibility of extending state criminal jurisdiction to punishable behaviors committed beyond its territory[1].

As early as the 17th century, Grotius stated that sovereigns had the right to punish not only wrongs done to them or their subjects, but also those that do not concern them, when such acts involved an enormous violation of the law of nature or the law of nations towards any person[2]. In that sense, by the 19th century, it had already been enshrined within internationalist and criminal scientific doctrine as one more jurisdictional principle, complementary to the criterion of territoriality, against crimes such as piracy, the slave trade, or drug trafficking, which today could be classified as international crimes[3].

Thus, it can be said that the **origin of universal jurisdiction** is framed within the process of development of international criminal law, arising from the need—of the international community—to pursue and repress all those crimes characterized by their especially harmful consequences against humanity.

Since then, attempts have been made to obtain a concrete **definition** of the principle of universal jurisdiction, and although an official international definition still does not exist today, it has been understood as "a legal principle that allows or requires a State to prosecute certain crimes, regardless of the place where the crime was committed and the nationality of the perpetrator or the victim," considering the evidence of a nexus with the forum State to be irrelevant for determining its competence[4].

The aforementioned definition, which considers universal jurisdiction in an **absolute** form, stems from Principle One of the Princeton Principles on

[1] Abraham Martínez Alcañiz, The principle of universal justice and war crimes, Doctoral thesis, Department of Criminal Law and Criminology, School of Law, National University of Distance Education (UNED), pp. 127-136, 2014: https://oai.e-spacio.uned.es/server/api/core/bitstreams/f2c63e4d-c389-4dbf-aa18-bebaff5cf374/content
[2] H. Grotius, 1729 "De iure belli ac pacis", Centro de Estudios Constitucionales, 1987, p. 103; cf. C. Ryngaert. 2012, loc cit, p. 108; cf. Abraham Martínez Alcañiz, The principle of universal justice and war crimes.
[3] Abraham Martínez Alcañiz, The principle of universal justice and war crimes, p. 137, op. cit.
[4] United Nations, General Assembly, A/65/181, Scope and application of the principle of universal jurisdiction. Report of the Secretary-General prepared on the basis of comments and observations of governments, p. 5, July 29, 2010: https://docs.un.org/es/A/65/181

Universal Jurisdiction[5], which bases this institution exclusively on the nature of the crime. States, nonetheless, agree on the principle of subsidiarity, whereby they would only act according to the principle of universal jurisdiction exceptionally, if the State where the facts were committed does not carry out any action[6].

In turn, the **most recent definition** is offered by the Madrid-Buenos Aires Principles on Universal Jurisdiction of 2015—promoted by FIBGAR—which provide that "universal jurisdiction determines the power or the obligation to investigate and, where appropriate, prosecute international crimes through domestic courts regardless of the place where they were committed, the nationality of the potential perpetrator, the victims, or the existence of any other connecting link with the State exercising jurisdiction, through the application of Domestic and/or International Criminal Law."

Likewise, they establish that this principle "is based on the idea that certain crimes are so harmful to international interests that States are authorized, and even obligated, to initiate legal action against the perpetrator, regardless of where the crime was committed and the nationality of the perpetrator or the victim"[7].

Thus, it can be affirmed that universal jurisdiction allows any State to prosecute international crimes committed by any person, wherever they may be,[8] due to the fact that they are so serious that they threaten the entire international community and, therefore, should not go unpunished[9].

As mentioned, this notion was especially reinforced after the atrocities committed in the **Second World War**—hereinafter WWII—where consensus was generated in the international community that certain offenses—war crimes, crimes against humanity, genocide, aggression, among others—are considered of such gravity that they transcend national borders, affecting the

[5] Principle 1 - Foundations of universal jurisdiction. 1. For the purposes of these Principles, universal jurisdiction is understood as a criminal jurisdiction based exclusively on the nature of the crime, regardless of the place where it was committed, the nationality of the alleged or convicted perpetrator, the nationality of the victim, or any other nexus with the State exercising such jurisdiction.
[6] Dorina Claudia Suciu, The principle of universal jurisdiction in Spain and in some countries of our surroundings: an analysis of legislation and judicial practice, International Journal of Doctrine and Jurisprudence, Number 14, 2016: https://share.google/774Qi9pOfNBiodGJY
[7] Mary Robinson, "Foreword", The Princeton Principles on Universal Jurisdiction, Annex, United Nations Doc. A/56/677, Note verbale dated 7 November 2001 from the Permanent Missions of Canada and the Netherlands to the United Nations addressed to the Secretary-General, Fifty-sixth session, Agenda item 164, Establishment of the International Criminal Court, p. 8. In: Xavier Philippe, The principles of universal jurisdiction and complementarity: their interconnection, 2006: https://www.icrc.org/sites/default/files/external/doc/es/assets/files/other/irrc_862_philippe.pdf
[8] Gérard de La Pradelle, "La compétence universelle", in Hervé Ascencio, Emmanuel Decaux and Alain Pellet (eds.), Droit international pénal, Éd. Pédone, Paris, 2000, p. 974. In: Xavier Philippe, The principles of universal jurisdiction and complementarity: their interconnection, Op. Cit.
[9] Xavier Philippe, The principles of universal jurisdiction and complementarity: their interconnection, Op. Cit.

international community[10] as a whole and consequently obliging all States to strive to ensure that those responsible do not remain unpunished.

In this manner, the post-war period not only resulted in the **defense and protection of human rights** acquiring due importance and binding the entire international community[11], but also led to the principle of universal jurisdiction extending to the prosecution of these previously mentioned crimes, considering that its purpose is to protect a cosmopolitan interest, represented by the oft-repeated **maintenance of international peace and security**, which could be affected if a massive or systematic violation of human rights occurs or if grave breaches of international humanitarian law—hereinafter IHL—are committed.[12].

The International Court of Justice itself—hereinafter ICJ—linked universal jurisdiction with human rights, considering it a protective tool in cases where the States of the forum delicti comissi are not in a position to exercise said functions, in compliance with the collective obligation to establish appropriate mechanisms aimed at protecting human rights, and to investigate, punish, and repair in cases where these are violated[13].

In this context, given the need to activate protection mechanisms, the **Geneva Conventions** were enshrined in 1949, legislating on the matter with application to cases of armed conflict—providing for the obligation of aut dedere aut judicare (search for, detain, and prosecute or, where appropriate, extradite) established for grave breaches—to be later supplemented by countless international treaties that established obligations of investigation, punishment, and reparation for certain specific facts considered grave human rights violations[14].

In this sense, the obligation of aut dedere aut judicare provided for in the 1949 Geneva Conventions is a concrete obligation derived from international agreements and differs from universal jurisdiction, as the latter is a criterion for the attribution of competence. Despite this, they are intimately linked, since when a State is a party to a treaty that incorporates the obligation of

[10] Lawyers Council for Civil and Economic Rights, Cyrus R. Vance Center for International Justice, Universal Jurisdiction in Latin America: a comparative analysis, 2023: https://www.vancecenter.org/wp-content/uploads/2023/08/Jurisdiccion-Universal-en-Latinoamerica.-Analisis-Comparado.-Final-publicado.pdf
[11] Ibidem, 136-146.
[12] Abraham Martínez Alcañiz, The principle of universal justice and war crimes, p. 141, op. cit.
[13] Advisory Opinions of the International Court of Justice dated March 30, 1950, and July 18, 1950, case Interpretation of Peace Treaties, pp. 65 and 221; cf. M. OLLÉ SESÉ. 2008, "Universal Justice...", loc cit, pp. 252 and 253. In Abraham Martínez Alcañiz, The principle of universal justice and war crimes, p. 49, op. cit.
[14] Among them, for instance, the 1973 Convention on the Suppression and Punishment of the Crime of Apartheid; the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the 1948 Convention on the Prevention and Punishment of the Crime of Genocide; the 2006 International Convention for the Protection of All Persons from Enforced Disappearance; and various conventions on terrorism, among other matters. Furthermore, it should be clarified that to these instruments of the universal order, one must add the various instruments enshrined by the different regional human rights systems—the African, the Inter-American, and the European.

aut dedere aut judicare and is not in a position to extradite a person who has committed one of the relevant illicit acts, the right to exercise jurisdiction can become an obligation as a result of that provision, as, in its capacity as a State Party, it should address it within its internal jurisdictions[15]. Even so, although in some cases there may be an overlap between the principles of universal jurisdiction and aut dedere aut judicare, they are distinct concepts and should not be confused.

On the other hand, it is worth mentioning that, although universal jurisdiction is considered to be exercised by States and international criminal jurisdiction corresponds to international tribunals, the granting of competence regarding certain illicit acts to international judicial bodies does not constitute a legal basis for States not to establish universal jurisdiction regarding those same crimes. To the contrary, it has been observed that—in practice—for many governments, the legitimacy of universal jurisdiction in their respective countries arises from the measures adopted at the domestic level to ratify and apply the Rome Statute[16].

As previously mentioned, after WWII there was a surge in regulations and discussions surrounding universal jurisdiction. In that context, in **May 1960**, one of the most relevant cases in the matter occurred when agents of the Israeli security service captured Otto Adolf Eichmann in Argentina for being one of those responsible for the so-called "final solution," and took him to Jerusalem to be tried in an Israeli court—which evidenced grave tensions regarding the violation of the principle of Argentine sovereignty. There, the Israeli courts referred to universal jurisdiction in dictum, based on national legislation of Israel that confers jurisdiction to its courts over “crimes against the Jewish people,” which include genocide and crimes against humanity in all cases where they are committed against them, wherever committed—that is, based on a connection of nationality with the victim that places said jurisdictional basis under the theory of passive personality[17].

Following the historical order, the principle of jurisdiction regained relevance starting in the **late eighties** —with cases such as that of the Achille Lauro investigated by Judge Baltasar Garzón in Spain in 1985[18]– and in the nineties, universal jurisdiction began to consolidate in the form we know it today through judicial investigation and practice.

But it was not until **October 16, 1998**, that the principle of universal jurisdiction gained special relevance, when the dictator, retired general, and

[15] United Nations, General Assembly, A/65/181, pp. 7-8, Op. cit.
[16] Ibidem, págs. 8-9.
[17] M. Cherif Bassiouni, Universal Jurisdiction for International Crimes: Historical Perspectives and Contemporary Practice, Virginia Journal of International Law, 2001: https://corteidh.or.cr/tablas/R08116.pdf
[18] FIBGAR, Universal jurisdiction: the commitment to a better world. Module 1: Universal Jurisdiction: evolution, concept, and characteristics: https://fibgar.es/wp-content/uploads/2022/04/Modulo-1-la-Jurisdiccion-Universal.pdf

senator-for-life of Chile, **Augusto Pinochet**, was detained in London at the request of the head of the Central Instruction Court No. 5 of the Spanish Audiencia Nacional, Baltasar Garzón, and was subjected to an extradition procedure urged by Spain before the British Government for the crimes of genocide, terrorism, and torture[19].

This event reactivated the doctrinal debate surrounding the principle of universal jurisdiction in particular, and the extraterritorial exercise of criminal jurisdiction by States in general[20].

It was from that moment that a path began which has led to the principle of universal jurisdiction currently being accepted by a hundred countries that, whether in its broad or restricted phase, have adopted the necessary legislation to exercise universal jurisdiction regarding various international crimes[21].

The countries that adopted a broad practice of universal jurisdiction focused on its **classical and pure sense**. These have considered that jurisdiction is attributed to their countries, if not the obligation to investigate and, where appropriate, judge those responsible for international crimes without the need for any point of connection between the crime and the State: neither the commission of the crime within its territory (territoriality), nor the nationality of the victims (passive personality), nor the nationality of the alleged perpetrator (active personality), nor a legitimate interest of the State to investigate or judge the facts (protective principle)[22]. On the other hand, other countries have opted for **restricted or relative universal jurisdictions**, far from the pure—and initial—conception. These, which require some point of connection to exist between the crime and the State, divert the institution from its ultimate objective, without sufficient arguments to understand or at least sufficiently justify those limitations.

In the development during these last decades, from the perspective of doctrinal discussion, one of the only points that has not generated debate is the fact of considering **humanity as the victim**, developed internationally by numerous bodies such as the Inter-American Court of Human Rights—hereinafter ICHR. Despite this, criticisms and differences between the legal systems of different countries have added other complexities. This translates the application of universal jurisdiction into something problematic for numerous sectors, and especially in relation to the obtaining of evidence and the costs—both economic and political—that the process

[19] Carmen Márquez Carrasco and Magdalena Martín Martínez, The principle of universal jurisdiction in the Spanish legal system: past, present, and future, Op. Cit.
[20] Ibidem.
[21] Xavier Philippe, The principles of universal jurisdiction and complementarity: their interconnection, Op. Cit.
[22] FIBGAR, Universal jurisdiction: the commitment to a better world. Module 1: Universal Jurisdiction: evolution, concept, and characteristics, Op. cit.

entails, the question of "why investigate facts foreign to the country and allocate resources for it?" tends to be a constant[23].

In any case, despite the fact that universal jurisdiction was not—and is not—exempt from discussions[24], the international community has recognized, in general terms, its importance for the prosecution of serious crimes of international significance that remain unpunished due to the lack of adequate conditions to guarantee justice in the States where these illicit acts took place[25].

This is how, even with these latent discussions, networks of international cooperation have been woven in recent years in order to promote the codification of those elements that enjoy consensus. In this way, in the year 2001, the fourteen **Princeton Principles on Universal Jurisdiction** were enshrined, the first document to address this institution[26]. To these guiding principles were added other efforts by doctrinal experts in the years 2001-2002 which gave rise to the **Cairo-Arusha Principles**[27].

Likewise, years later and for the purpose of updating and adapting universal jurisdiction to the needs of the contemporary fight against impunity, the **Madrid-Buenos Aires Principles on Universal Jurisdiction** were finalized on September 10, 2015. There, in addition to reaffirming the doctrinal principles obtained to date, "new sources of impunity and means to combat it were denounced with the aspiration of establishing the opinio iuris that consolidates Universal Jurisdiction as an effective instrument for the eradication of impunity and the protection of victims and the ecosystem," understanding that the principle is also applicable to economic and environmental crimes that seriously affect human rights or involve the irreversible destruction of ecosystems[28].

In short, it is evident that this diverse, complex, and highly vibrant phenomenon that is universal jurisdiction presents itself as an indispensable path that victims can access to obtain justice when this—due to various circumstances—is not possible in their own territories. This is so when considering that judgments are one of the best forms of reparation, even when they do not entail a sanction that imposes imprisonment on those

[23] Natalia Barbero, Main challenges to Universal Jurisdiction, Workshop: Universal jurisdiction in Argentina. Challenges and lessons in the fight against impunity, Gioja Institute and School of Law of the University of Buenos Aires, 2024: https://www.youtube.com/live/I18ue4Gs1o0?si=M7nQXg2-MXD9srLl
[24] Xavier Philippe, The principles of universal jurisdiction and complementarity: their interconnection, Op. Cit.
[25] United Nations, General Assembly, A/65/181, Op. cit.
[26] Equipo Nizkor, Text of the Princeton Principles on Universal Jurisdiction, 2001: https://www.derechos.org/nizkor/espana/doc/princeton.html#Principios
[27] The Cairo-Arusha Principles on Universal Jurisdiction in respect of Gross Human Rights Offences: An African Perspective (Africa Legal Aid, Cairo, 2001, and Arusha, 2002); the text of the Principles can be consulted at www.africalegalaid.com, under the Policy Documents section.
[28] International Foundation Baltasar Garzón (FIBGAR), Dossier International Congress on Universal Jurisdiction, Dissemination of the Madrid-Buenos Aires Principles on Universal Jurisdiction, 2015: https://fibgar.es/wp-content/uploads/2020/06/principios-de-jurisdiccion-universal.pdf

responsible—whether due to technical or natural impossibilities, such as the death of the accused—precisely because the criminal process—following Dr. Daniel Eduardo Feierstein—is the place par excellence for the determination of truth and the establishment of responsibilities, and precisely because the only way to comply with the guarantee of non-repetition is the guarantee of non-impunity. As the IACtHR has already mentioned since its first case Velásquez Rodríguez vs. Honduras, "the obligation to guarantee truth and justice is the obligation to investigate, prevent, and punish"[29].

THE SCOPE OF UNIVERSAL JURISDICTION IN THE ARGENTINE JUSTICE SYSTEM

While Argentina is one of the few Latin American countries that has not enacted specific legislation on universal jurisdiction in recent years—it is customary for States applying the principle of universal jurisdiction to have the crimes to which it applies codified in their criminal legal order—it is one of the most active in the world in exercising this form of extraterritorial competence. There, it has been applied in its **"pure" variant**[30], that is, the most ambitious form of universal competence has been enabled, where it is applied regardless of the place of commission of the act, or the nationality of the perpetrator or the victim, and it does not even require the presence of the accused in the national territory at the time an investigation is initiated.

In this sense, a new paradigm shift in the exercise of judicial activity began in Argentina two decades ago and, to date, this has led to the opening of numerous investigations based on this principle, making it the country with the seventh-highest number of cases initiated worldwide, and the first in Latin America[31].

This **abundant jurisdictional activity** had **judicial innovation** as its starting point since various courts in the country built their universal competence on the basis of a constitutional clause from the mid-19th century—Article 99 of the National Constitution of 1853—its regulatory legislation, and the right of access to jurisdiction provided for in Article 25 of the American Convention on Human Rights—hereinafter ACHR. Even today, this application derives mainly from the interpretations[32] made of Article 118 of the Argentine

[29] Natalia Barbero, Main challenges to Universal Jurisdiction, Op. Cit.
[30] Alejandro Chehtman, Argentina and its universal jurisdiction unleashed?, Rule of Law Agenda 2024.:https://agendaestadodederecho.com/argentinaysucompetenciauniversal/#:~:text=En%20efecto%2C%20hasta%202017%2C%20la,Brasil%20y%20Colombia%20(1)
[31] TRIAL International, Civitas Maxima, Center for Justice and Accountability (CJA), European Center for Constitutional and Human Rights (ECCHR), International Federation for Human Rights (FIDH) and REDRESS, Universal Jurisdiction Annual Review: 2024 Edition, 2024: https://trialinternational.org/wp-content/uploads/2024/04/UJAR-2024_digital.pdf
[32] Since the ruling in the Mazzeo case, for instance, the CSJN used the foundations of universal jurisdiction to declare the unconstitutionality of pardons granted to former military personnel for crimes against humanity committed during the last civic-military dictatorship, understanding that universal jurisdiction

National Constitution, Law 26,200 of 2006, and the international obligations assumed through various Human Rights Treaties, many of which have been constitutionalized since 1994 under Article 75, paragraph 22 of the Magna Carta. The latest regulation on the matter comprises Resolution PGN No. 76/24 of the Attorney General's Office (*Procuración General de la Nación*).

Article 118 of the National Constitution has its precedent in the National Constitution of 1853. Since then, in its Article 99, the Magna Carta already positively enshrined the possibility of judging crimes against the "law of nations" within the country, even when they had been committed extraterritorially, providing a mandate to Congress for the enactment of a special law for the purpose of determining the place where those trials should proceed. This provision remained practically unchanged in Article 118 of the current constitutional text approved in 1994[33].

Regarding this, the **jurisprudence of the Supreme Court of Justice of the Nation** —hereinafter CSJN— and lower courts have interpreted this article as a recognition of universal jurisdiction, which establishes an obligation on judicial bodies and the Public Prosecutor's Office to apply it in cases of serious international crimes. In this same vein, the CSJN has even stated that the State is not authorized in these cases to take decisions whose consequence would be a waiver of criminal prosecution[34].

Law No. 26,200, enacted on December 13, 2006, and promulgated on January 5, 2007, aimed at the effective domestic implementation of the **Rome Statute, approved by Law No. 25,390** and ratified by the State on January 16, 2001, which creates the International Criminal Court—hereinafter ICC—a permanent institution empowered to exercise supranational jurisdiction—complementary to national jurisdictions—over persons regarding the most serious crimes for the international community. The preamble of the Statute provides that "it is the duty of every State to exercise

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must be applied when the national authorities of the country where the events occurred prevent access to justice. In: National Supreme Court of Justice (CSJN) Mazzeo, Julio Lilo and others on appeal for cassation and unconstitutionality. M. 2333. XLII. Buenos Aires, July 13, 2007. Available at: https://www.mpf.gob.ar/wp-content/uploads/2016/03/11-20070713-Mazzeo.pdf. Likewise, the CSJN held in the Arancibia Clavel, Priebke, and Simón cases that universal jurisdiction is applied in the country by virtue of the commitment undertaken to eradicate crimes against humanity, insofar as they infringe upon fundamental human rights. See Rulings 318:2148; 327:3312; 328:2056 and 330:3248 of the National Supreme Court of Justice, Argentina.

[33] Article 99 of the 1853 National Constitution stated: "All ordinary criminal trials, which do not derive from the right of impeachment granted to the Chamber of Deputies, shall be terminated by juries, as soon as this institution is established in the Confederation. The proceedings of these trials shall take place in the same Province where the crime was committed; but when the crime is committed outside the limits of the Confederation, against the Law of Nations, Congress shall determine by a special law the place where the trial is to be held." Article 118 of the current National Constitution states: "All ordinary criminal trials, which do not derive from the right of impeachment granted to the Chamber of Deputies, shall be terminated by juries, as soon as this institution is established in the Republic. The proceedings of these trials shall take place in the same province where the crime was committed; but when the crime is committed outside the limits of the Nation, against the Law of Nations, Congress shall determine by a special law the place where the trial is to be held."

[34] Permanent Mission of the Argentine Republic to the United Nations, ENAU No. 408/2018, available at: https://www.un.org/en/ga/sixth/73/universal_jurisdiction/argentina_s.pdf

its criminal jurisdiction over those responsible for international crimes," providing for universal jurisdiction for States that have ratified the Statute, recognizing it for the crimes of genocide, crimes against humanity, war crimes, and crimes and acts of aggression, and enabling the exercise of universal jurisdiction under certain assumptions. In turn, the Statute provides procedural rules on mutual legal assistance and cooperation that allow for the construction of solid evidentiary bases to develop these investigations, guaranteeing the conduct of fair trials.

For its part, Law No. 26,200 establishes the **competence of the federal criminal justice system** over the crimes mentioned in the Rome Statute of the ICC[35]. That is to say, in Argentina, universal jurisdiction is exercised by the federal criminal courts. Furthermore, Article 2 indicates that these courts shall have competence regarding crimes and offenses over which the International Criminal Court has jurisdiction and all those offenses and crimes that may hereafter fall within its competence. In other words, the law typifies international crimes by way of a referral (*reenvío*) to the Rome Statute, respecting its original wording and adding a minimum and maximum penalty for each of them.

However, the wording of Article 2 of the law has been interpreted as a temporal limitation, under the understanding that Argentine justice has competence regarding crimes committed after July 1, 2002 (the date of the entry into force of the Rome Statute), leaving out prior events. In these cases, to extend competence to earlier facts, an approach similar to that applied in Argentine justice for the crimes of the last civic-military dictatorship (1976-1983) has been adopted, where, although they are recognized as crimes against humanity, they are framed within criminal categories of the Penal Code in force at the time of the events, such as torture, enforced disappearance, homicide, rape, or arbitrary detention[36].

Likewise, the Argentine Supreme Court has upheld numerous interpretations by which it is understood that Argentine courts must be open to pursuing international crimes without temporal limitation, provided they have been considered part of international customary law. In turn, the prosecution has been substantiated on the grounds that imprescriptibility (the absence of

[35] Article 5 states that: Jurisdiction over the commission of the crimes provided for in the Rome Statute and in this law corresponds to the Federal Courts with criminal jurisdiction. Furthermore, Article 6 provides that: As a supplement to this law, the principles and rules of international criminal law, the general principles of Argentine law, and the norms contained in the Penal Code, the National Code of Criminal Procedure, and its complementary laws shall apply.

[36] Bénédict De Moerloose, Máximo Castex, Universal Jurisdiction. Law and practice in Argentina. Report | April 2025, TRIAL International, Peter & Moreau Law Firm, p. 16, 2025: https://trialinternational.org/wp-content/uploads/2025/04/UJ-Law-Practice-Briefing-Paper_Argentina_ES.pdf

statutes of limitation) must prevail in these cases, as it is assumed to be inherent to the interpretive norms of *ius cogens*[37].

In that sense, according to the provisions of Law No. 26,200, the country's federal criminal justice system would have competence for the crimes of genocide, crimes against humanity ——with identical penalties as in the case of crimes against humanity—and crimes and acts of aggression. In particular, regarding the crime of aggression, although Argentina does not currently have a specific codification in its national legislation, through **Law 27,318** of 2016, the country approved the **Kampala Amendments** (2010), which incorporate the definition of this crime into Article 8 *bis* of the Rome Statute. Therefore, this crime can also be prosecuted under Argentine law[38].

To the provisions of Law No. 26,200 are added the crimes of torture—Articles 144 third[39], fourth, and fifth—enforced disappearances—Article 142 third, which contemplates enforced disappearance even when it has not been committed within the framework of a widespread or systematic attack against the civilian population[40]–, —slavery—Article 140—and piracy—Articles 198 and 199—as typified in the **Penal Code of the Argentine Nation, Law No. 11,179 and its updates.**

In any case, universal jurisdiction in Argentina is not limited to the crimes described in Law No. 26,200 and the Penal Code of the Argentine Nation, but extends to other international crimes typified in treaties ratified by the State

[37] An example of this progressive interpretation is the case concerning Francoism, in which the fact that the reported crimes were committed between 1936 and 1978 has not been an obstacle to the opening of an investigation. In: Ibidem.

[38] General Guidelines for Action of the National Public Prosecutor's Office on Universal Jurisdiction, December 2024. In: Bénédict De Moerloose, Máximo Castex, Universal Jurisdiction. Law and practice in Argentina. Report | April 2025, Op. cit.

[39] Article 144 ter punishes "with 8 to 25 years of imprisonment or reclusion and absolute and perpetual disqualification, any public official who inflicts any kind of torture upon persons lawfully or unlawfully deprived of their liberty." Therefore, this criminal definition sets a broader factual framework than the definition in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by Argentina in 1986 (Article 1, I), or the Inter-American Convention to Prevent and Punish Torture (Article 2), since its configuration does not establish any motivational limit; that is, the existence or absence of a specific intent on the part of the agent is irrelevant when affirming the typicality of the conduct. Furthermore, Article 144 quater establishes sanctions for officials who, having jurisdiction, fail to prevent the commission of an act of torture, or who, lacking it, fail to report it. It also penalizes any judge who fails to initiate the corresponding summary proceedings or who, upon learning of an act of torture, fails to report it to the competent judge within the following 24 hours. Likewise, Article 144 quinto sanctions even the lack of due diligence to prevent torture. In: Bénédict De Moerloose, Máximo Castex, Universal Jurisdiction. Law and practice in Argentina. Report | April 2025, pp. 8-13, Op. cit.

[40] Article 142 ter: "A sentence of TEN (10) to TWENTY-FIVE (25) years of imprisonment and absolute and perpetual disqualification from holding any public office or performing private security tasks shall be imposed upon any public official, or any person or member of a group of persons who, acting with the authorization, support, or acquiescence of the State, in any way, deprives one or more persons of their liberty, when such action is followed by a lack of information or a refusal to acknowledge said deprivation of liberty or to provide information on the person's whereabouts. The penalty shall be life imprisonment if death results or if the victim is a pregnant woman, a person under EIGHTEEN (18) years of age, a person over SEVENTY (70) years of age, or a person with a disability. The same penalty shall be imposed when the victim is a person born during the forced disappearance of their mother. The penal scale provided for in this article may be reduced by one-third of the maximum and one-half of the minimum with respect to perpetrators or accomplices who release the victim alive or provide information that allows for their effective reappearance alive." (Article incorporated by Art. 1 of Law No. 26.679, Official Gazette 05/09/2011).

or by customary law. In those cases, the courts apply the Penal Code of the Argentine Nation to determine responsibility for the underlying offenses and the corresponding penalties[41].

On the other hand, the international normative base that supports the application of international jurisdiction in the country is integrated by the **1949 Geneva Conventions on International Humanitarian Law**, ratified by Argentina in 1956, which establish obligations to prevent or end any breach included in said instruments. For the purpose of complying with those commitments, there arises from these conventions the obligation—among others—for each State Party to search for persons alleged to have committed, or to have ordered to be committed, any of the grave breaches provided for therein, and to bring them before its own courts, regardless of their nationality, also called—as previously explained—the obligation of aut dedere aut judicare (search, detain, and prosecute or, where appropriate, extradite). This has constituted the most complete and express mention made to date in an international treaty providing a basis for the principle of international jurisdiction[42].

Likewise, within the international regulatory framework, it should be noted that the State is a party to numerous treaties that regulate the matter within the universal system. Among them is the 1948 **Convention on the Prevention and Punishment of the Crime of Genocide** —ratified on April 9, 1956, and with constitutional status since the 1994 Constitution reform, through Article 75, paragraph 22— which contemplates the *erga omnes* obligation to collaborate in the fight against the crime of genocide, providing a glimpse of the principle of universal jurisdiction.

Furthermore, **other international instruments** such as the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (Article 28), the 1973 Convention on the Suppression and Punishment of the Crime of Apartheid (Articles 4 and 5)[43], the 1982 United Nations Convention on the Law of the Sea (Article 105), the 1984 Convention

[41] Ibidem.
[42] Specifically, Articles 49, 50, 129, and 146 of the First, Second, Third, and Fourth Conventions respectively, all with the same wording, state: "Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand them over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a prima facie case."
[43] Article 4 states: "The States Parties to the present Convention undertake: (...) (b) To adopt legislative, judicial and administrative measures to prosecute, bring to trial and punish in accordance with their jurisdiction persons responsible for, or accused of, the acts enumerated in Article II of the present Convention, irrespective of whether such persons reside in the territory of the State in which the acts were committed or are nationals of that State or of some other State or are stateless persons." Article 5 notes: "Persons accused (...) may be tried by a competent tribunal of any State Party to the Convention which has jurisdiction over those persons or by any international penal tribunal which may have jurisdiction with respect to those States Parties which have accepted its jurisdiction." The principle of universal jurisdiction is established, but there is no obligation to prosecute, as provided in the Geneva Conventions; instead, it is left to the will of the States Parties or an international criminal tribunal.

against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Article 5.3)[44], and the 2006 International Convention for the Protection of All Persons from Enforced Disappearance (Article 9.3)[45], among others, also expressly provide for it or enable its application.

From these instruments, it is translated that the exercise of universal jurisdiction is based on the obligation to guarantee human rights that corresponds to every State, fully correlated with the obligation to guarantee universal peace held by all countries belonging to the United Nations—hereinafter UN—on the grounds that, as mentioned, without human rights, no peace is possible[46].

In this sense, the latest instrument that the Argentine State has signed was the **Ljubljana-The Hague Convention** in May 2023, on mutual legal assistance and international cooperation for the investigation and prosecution of international crimes—which is not yet in force to date, but will in the future play a fundamental role in analyzing and deciding the application of this type of jurisdiction.

On the other hand, within the framework of the regional human rights system, the State is also a party to numerous instruments that include these provisions, including the American Convention on Human Rights and the Inter-American Convention on Forced Disappearance of Persons—approved by Law 24,556 in 1995 and with constitutional hierarchy as of Law 24,820 of 1997. Specifically, the Inter-American Court of Human Rights has indicated that, in contexts of systematic or widespread human rights violations, the need to eradicate impunity presents itself to the international community as a "duty of inter-state cooperation for these purposes"[47].

This international development accounts for how the principle of universal jurisdiction was adopted after WWII in numerous international treaties regarding very diverse international crimes, considered part of ius cogens.

In addition, as mentioned in the previous section, Argentina served as the **venue for the signing of the 2015 Madrid-Buenos Aires Principles**, developed with the support of the International Baltasar Garzón Foundation and experts from around the world, with whom the country's government collaborated with the objective of providing universal jurisdiction with greater tools to fight against new sources of impunity derived from economic and environmental crimes.

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[44] Article 5, paragraph 3, provides: "This Convention does not exclude any criminal jurisdiction exercised in accordance with national law."
[45] Article 9, paragraph 3, provides: "This Convention does not exclude any additional criminal jurisdiction exercised in accordance with national law."
[46] Natalia Barbero, Main challenges to Universal Jurisdiction, Op. Cit.
[47] Inter-American Court of Human Rights (IACHR). Case of Herzog et al. v. Brazil (Preliminary Objections, Merits, Reparations and Costs), para. 296, 2018: https://jurisprudencia.corteidh.or.cr/vid/i-court-h-r-883977891/search#vid/i-court-h-r-883977891

Despite everything mentioned previously, some **recent decisions** have shown a jurisprudential evolution that restricts the criteria for universal jurisdiction. For example, in the case of the Uyghur people, the Federal Court of Appeals, in a decision dated August 8, 2024, evoked a "connecting rule" for the first time, arguing in favor of closing the proceeding, given that the victims were not Argentine residents[48].

Added to this, this **regressive trend** was also observed this past December 16, 2024, when **Resolution PGN No. 76/24 of the Attorney General's Office** was issued[49], with a series of interpretive directives regarding the application of the principle of Universal Jurisdiction, to be taken into account by the prosecutors of the Public Prosecutor's Office. In this, it is understood that serious crimes against human rights should only be pursued in the event that they occur or have effects in Argentine territory, are committed by an Argentine or the victim is a national of the country, or the alleged perpetrator is in Argentine territory or is a stateless person residing in it. These, despite having only the character of recommendations, restrict the pure interpretation of the principle that consistently developed in the State during recent decades and, therefore, could limit the scope of action for prosecutions.

Likewise, it is necessary to consider that the **new Federal Criminal Procedure Code (Código Procesal Penal Federal - CPPF) in Argentina, Law No. 27,063**[50], will soon enter into force —following a progressive implementation across different jurisdictions— throughout the country, implementing an accusatory and adversarial system and eliminating the previous inquisitorial system. This system, among numerous other modifications, delegates the investigation to prosecutors —previously headed by judges— which could change the way proceedings are carried out under the principle of universal jurisdiction, as well as their corresponding investigations.

ARGENTINE JUSTICE IN THE REGIONAL SCENARIO

As previously mentioned, Argentina's situation regarding universal jurisdiction is **unique in the region**; due to this trajectory, many victims turn to its courts in search of the justice they cannot obtain in their ordinary jurisdictions. The country is a leader in the exercise of universal jurisdiction

[48] Federal Criminal and Correctional Court, Chamber II, Case No. CFP 2774/22/1/CA1, styled "Dolkun Isa and others on archiving and becoming a complainant". In: Bénédict De Moerloose, Máximo Castex, Universal Jurisdiction. Law and practice in Argentina. Report | April 2025, p. 18, Op. cit.
[49] Office of the Attorney General of the Nation, Resolution PGN No. 76/24, December 16, 2024, City of Buenos Aires: https://www.fiscales.gob.ar/wp-content/uploads/2024/12/Res-76_2024.pdf
[50] InfoLEG - Ministry of Justice of the Nation, FEDERAL CODE OF CRIMINAL PROCEDURE, (Name of the Code substituted by Art. 1 of Law No. 27.482, Official Gazette 01/07/2019), Law 27.063, Approval, Enacted: December 4, 2014, Promulgated: December 9, 2014: https://servicios.infoleg.gob.ar/infolegInternet/anexos/235000-239999/239340/texact.htm

outside of Europe, and this path can be understood as a transcendence of the criticism that universal jurisdiction represents a neocolonial project that reinforces Global North hierarchies. Furthermore, it is the only country in South America[51], with active cases that have advanced to a trial stage, making it an extremely important actor not only due to the number of cases but also because of their degree of progress and the political impact they possess.

This situation can be explained, firstly, by the fact that within a region that has suffered —and continues to suffer— gross human rights violations, Argentina has been a **pioneer**, not only in Latin America but also worldwide, with **the trials for crimes against humanity** it has carried out against the repressors of the last military dictatorship, its truth commissions, and its memory and reparation processes. Thus, due to their history, the courts, prosecutors, and their teams possess **the necessary experience to conduct such complex investigations.**

Secondly, it is explained by the fact that Argentina has been the recipient of significant universal jurisdiction cases in many countries —Spain with the Scilingo case, Germany, France, Sweden, among others— and that this has caused a "boomerang" effect, contributing to the initiation of various accountability processes in Argentina.

Likewise, it is accompanied by the fact that these processes have not been politically costly for Argentina, as—until now—the courts have managed astutely to modulate the need for accountability with the country's more general interests. Furthermore, it has been understood that by n**ot having specific legislation on the matter** —contrary to other Latin American countries that have developed it in light of the war on drugs, terrorism, and the fight against corruption, a product of United States policies on the continent— and possessing in its legal system the figure of the **querellante** (private complainant) —who is even permitted to appeal decisions to dismiss cases without the presence of the prosecutor— it has become fertile ground for doctrinal and jurisprudential advancement.[52].

In this manner, since 2005, more than a hundred complaints have been filed before the federal criminal jurisdiction under this principle. Nevertheless, of that number of complaints, only a few have translated into initiated proceedings and, to date, none has a final judgment. In this context, many **obstacles** in procedural exercise and difficulties in the political and economic spheres have arisen, which have had to be overcome through the initiative of

[51] Ibidem.
[52] Alejandro Chehtman, The situation of Universal Jurisdiction in Latin America and Argentina's role in the regional context, Workshop: Universal Jurisdiction in Argentina. Challenges and lessons learned in the fight against impunity, Gioja Institute and School of Law of the University of Buenos Aires, 2024: https://www.youtube.com/live/l18ue4Gs1o0?si=M7nOXg2-MXD9srLI

both the querellas and their representatives, as well as professionals specialized in the field who—day by day and in a very handcrafted way—have shaped a series of strategies to address these conflicts.

The great complexity of many of these cases lies in their political importance. An example of this has been the case followed for the crimes committed by the Spanish Francoist regime, and other current cases where—for instance—former heads of state or sitting rulers of other countries are indicted, which implies a great challenge when devising both political and procedural strategies to address them[53].

JURISPRUDENTIAL CONSTRUCTION IN THE ARGENTINE JUSTICE SYSTEM

Following the analysis of Argentina's actions within the regional sphere, a review of the current status of some of the universal jurisdiction processes carried out in the country will be provided below. In particular, the complaints that have translated into initiated proceedings and are being heard by the federal justice system will be presented, as well as some others that remain in the investigation stage or constitute recent complaints but are taken into account for this development due to their international significance.

Spain and the "Argentine Complaint" (Querella Argentina)

The so-called "Argentine Complaint" regarding the crimes committed within the framework of the **Spanish Francoist dictatorship** was not the first complaint filed in Argentina, but it has certainly been one of the most significant. This is due to its international importance, its status as the judicial process with the greatest local visibility—with numerous related activities reflecting the solidarity between both societies in their shared struggles against impunity—and for being the universal jurisdiction case with **the most procedural movement** before Argentine federal courts[54].

On **April 14, 2010**, a complaint was filed in the federal criminal courts of Buenos Aires for genocide and crimes against humanity—acts of torture, imprisonment, enforced disappearances, murders, forced labor, deportations, appropriation of children, and executions—allegedly committed in Spain

[53] Julieta Mira, Faced with a process that has changed the political and cultural landscape: local and regional challenges, Op. Cit.
[54] Julieta Mira, The principle of universal jurisdiction in Argentina: the criminal trial of Francoism crimes and the persecution of the Rohingya people, Journal of the Sociology Career, vol. 13 no. 13, 336 – 376, National Scientific and Technical Research Council (CONICET), Institute of Justice and Human Rights, National University of Lanús, 2023: https://ri.conicet.gov.ar/handle/11336/222794

within the framework of the Francoist dictatorship and the transition period (between July 1936 and June 1977)[55].

The complaint was initially filed by Inés García Holgado and Darío Rivas, acting as relatives of victims—residing in Argentina as a result of exile, like hundreds of thousands of Spanish citizens—alongside professionals, social organizations, and human rights groups, including the Association for the Recovery of Historical Memory (ARMH), Grandmothers of the Plaza de Mayo, and the Center for Legal and Social Studies (CELS), among others[56].

In the complaint, the Spanish Government was requested to forward the proceedings and evidence gathered by Judge Baltasar Garzón between 2006 and 2008; information on the members of the Councils of Ministers of the Spanish State Governments, the Armed Forces, and the Civil Guard who served between 1936 and 1977; information regarding persons disappeared, murdered, and tortured for political reasons for their identification; as well as collaboration in locating all mass graves and information on children taken from their families during the dictatorship[57].

This complaint gave rise to **Case No. 4591/2010**, which was assigned to the National Criminal and Correctional Court No. 1, presided over by Federal Judge María Romilda Servini de Cubría.

Regarding the facts, the persistent reluctance of the Spanish State to investigate these international crimes is a matter of public knowledge, as is the continued validity of Amnesty Law No. 46/1977, promulgated on October 15, 1977, which continues to function in practice as an obstacle to accountability.

In the framework of the case, the federal prosecutor initially argued that the case should be dismissed because the principle of subsidiarity prevented Argentine courts from exercising jurisdiction, as there were no legal impediments to the investigation being carried out by Spanish authorities, since the amnesty law did not contemplate genocide or crimes against humanity. Consequently, the court held that it could not proceed without the prosecution initiating criminal action, and **archived** the case. The complainants, however, appealed the resolution, and on **September 3, 2010,** it was revoked by the National Federal Criminal and Correctional Appeals

[55] Trial International, *Universal Jurisdiction Annual Review 2020: Terrorism and international crimes: prosecuting atrocities for what they are*, 2020: https://trialinternational.org/wp-content/uploads/2020/03/TRIAL-International_UJAR-2020_DIGITAL.pdf

[56] Marta Álvarez González, The fight against impunity in Spain through the exercise of universal jurisdiction: the case of the complaint in Argentina against Francoism crimes, Master in International Studies 2013-2014, University of Barcelona: https://diposit.ub.edu/dspace/bitstream/2445/66910/1/Memoria_Marta_Alvarez_Gonzalez.pdf

[57] Irene Vázquez Serrano, The principle of universal jurisdiction, Seminar of the cycle "Jurisdictional means of peaceful settlement of disputes", Faculty of Law of the National University of La Plata, Argentina, 2018: https://revistas.unlp.edu.ar/Redic/article/download/9640/8500

Chamber, citing Argentina's obligation to ensure access to justice for victims of international crimes—through the figure of the querella (private prosecution)—when they do not obtain it in the State where the events occurred.

Following that resolution, the **first-instance judge opened the instruction** and, as part of the inquiry, issued letters rogatory (exhortos) to the Spanish authorities requesting information on existing investigations into the reported crimes, as well as the collection and delivery of documentation that could be useful for the process in Argentina. She also required that statements be taken from several witnesses residing in Spain—a measure that could not be carried out—and took testimony from persons located in Argentine territory. Furthermore, the court instructed Argentine consulates to receive complaints in different countries around the world where other victims might reside. In this way, the case represented the first opportunity for hundreds of victims to provide their testimony before a court regarding the crimes suffered during the Francoist dictatorship.

Over time, **complaints multiplied** against various persons linked to crimes committed during the Francoist dictatorship, incorporating new facts—including some occurring in 1978, beyond the initial 1936–1977 period—progressively expanding the querella to approximately 350 complainants today, reflecting the magnitude and socio-political relevance of the case. A key factor in gathering these was the participation of Spanish lawyers in a broad network of transnational legal activism, which had begun to consolidate following the judicial investigations in Spain and, in particular, the conviction of Adolfo Scilingo for the crimes of the Argentine dictatorship.

Within the framework of the investigation, the complainants have requested various **evidentiary measures**, including testimonial statements via videoconference or letters rogatory, exhumations—such as the case of Timoteo Mendieta in Guadalajara—and the forwarding of documents and information. This work has been possible thanks to the efforts of the complainants themselves, who took charge of systematizing the evidentiary material so that it would reach Argentina in the most organized manner possible, facing the wall of non-collaboration from the Spanish State and the logistical difficulties involved for Argentine officials in gathering and organizing evidence in another country[58]. In this context, in June 2012, the AQUA Network (later CeAQUA) emerged as a support platform for the complaint[59].

[58] Julieta Bandilari, The experiences of plaintiffs' lawyers in cases of international crimes in Argentina, Workshop: Universal Jurisdiction in Argentina. Challenges and lessons learned in the fight against impunity, Gioja Institute and Faculty of Law of the University of Buenos Aires, 2024: https://www.youtube.com/live/l18ue4Gs1o0?si=M7nQXq2-MXD9srLI

[59] Marta Álvarez González, The fight against impunity in Spain through the exercise of universal jurisdiction, Op. cit.

Consequently, in **March 2013**, the prosecution formulated the first **indictments**, requesting the **detention and extradition** of the accused. This was granted by the federal court, and thus in September of that same year, international arrest and extradition warrants were issued against Rodolfo Martín Villa, José Utrera Molina, Fernando Suárez González, Rafael Gómez-Chaparro Aguado, Jesús Cejas Mohedano, Juan Antonio González Pacheco (also known as "Billy el Niño"), José Ignacio Giralte González, Celso Galván Abascal, and Jesús Muñecas Aguilar.

The Spanish Audiencia Nacional denied the extraditions alleging, among other reasons, the statute of limitations under domestic law. For its part, Interpol Spain's initial response was not to proceed with the extradition, arguing that it was a political case—a stark example of how a lack of international cooperation can obstruct universal jurisdiction cases[60].

Advancing the case further, in **February 2014**, **testimonial statements** were taken via videoconference from 13 additional persons at the Argentine Consulate in Madrid. In May of that same year, Judge Servini traveled to Spain to take testimonies from victims who, due to age and/or health conditions, could not travel to an Argentine consulate—including two statements in Guernica; she also met with local authorities. This proved to be a milestone of utmost importance, as it was the first time that victims of Francoism were able to testify in a judicial setting[61].

On **October 30, 2014,** the Argentine court ordered an **expanded international arrest warrant** for the purpose of extraditing Martín Villa, Utrera Molina, and 18 other Spanish defendants. Like the previous requests, these were denied by the Spanish Audiencia Nacional on the grounds that the cases were time-barred under Spanish law[62].

Subsequently, in **2015**, the court sent new letters rogatory, and testimonies were taken in other autonomous communities —the Basque Country, Seville, Almería, Barcelona, and Madrid–[63].

Furthermore, the **exhumations** ordered by the Argentine judiciary in its second commission rogatory[64] —granting the requests of the more than 150 complainants who sought it— together with a technical report from the

[60] Dr. Máximo Castex, From the case against Francoism to the Colombian case. Experiences and lessons learned, Workshop: Universal Jurisdiction in Argentina. Challenges and lessons learned in the fight against impunity, Gioja Institute and Faculty of Law of the University of Buenos Aires, 2024: https://www.youtube.com/live/l18ue4Gs1o0?si=M7nQXg2-MXD9srLI

[61] Máximo Castex, 10 years after the Argentine lawsuit, Haroldo Magazine, 2020: https://revistaharoldo.com.ar/nota.php?id=565

[62] Irene Vázquez Serrano, The principle of universal jurisdiction, Op. Cit. Trial International, Universal Jurisdiction Annual Review 2020: Terrorism and international crimes: prosecuting atrocities for what they are, Op. Cit.

[63] Ibidem.

[64] Irene Vázquez Serrano, The principle of universal jurisdiction, Op. Cit.

Association for the Recovery of Historical Memory (ARMH), led to the identification of numerous victims during that period.

In **2018**, Judge Servini de Cubría again expanded the scope of the investigation to include s**exual offenses, forced abortion, and the theft of children**, following a new complaint filed by the NGO Women's Link Worldwide[65].

The case is currently in the **inquiry (indagatoria) phase**. Thus, despite delays caused by defense appeals and later the pandemic, on **September 3, 2020**, the inquiry hearing against Rodolfo Martín Villa took place via videoconference at the Consulate General of the Argentine Republic in Madrid[66]. He was questioned for his involvement in the Vitoria-Gasteiz massacre of March 3, 1976, in which five workers were killed by the Armed Police, and for several cases of repression in the Basque Country and Navarra against demonstrators favoring amnesty for political prisoners.

As a result, on **October 15, 2021,** Judge Servini issued an **indictment** (auto de procesamiento) against Martín Villa for aggravated homicide in the context of crimes against humanity —12 cases in total, including the five cases in Vitoria and those in Pamplona and Navarra. This decision was appealed by the defense.

On **December 23, 2021,** the Federal Chamber upheld the defense's appeal and revoked the classification as crimes against humanity due to insufficient evidence for those purposes. Nevertheless, despite questioning the legal classification, it did not archive the investigation nor order a definitive dismissal (sobreseimiento). The prosecutor appealed this decision, but on **September 20, 2022**, the Chamber ruled the prosecution's challenge inadmissible, considering that the indictment did not constitute a final judgment subject to such an appeal[67].

The investigation remains open today. In this context, in **March 2024**, **testimonial hearings** continued for numerous victims and other experts, such as Miguel Mezquida (Archaeological Director) and Javier Iglesias (Forensic Anthropologist) from the Arqueoantro team; Daniel Galán on behalf of the Platform of relatives of the Paterna cemetery; and Manuel Sánchez, a member of the association "Todos los niños robados son también mis niños." Furthermore, the complainants presented extensive **documentary evidence**, such as the Report on Torture in the Basque Country from the UPV Institute of Criminology (promoted by the Basque

[65] Trial International, *Universal Jurisdiction Annual Review 2020: Terrorism and international crimes: prosecuting atrocities for what they are*, Óp. Cit.
[66] Trial International, *Universal Jurisdiction Annual Review 2022: Universal jurisdiction, an overlooked tool to fight conflict-related sexual violence*, 2022: https://trialinternational.org/wp-content/uploads/2022/03/TRIAL_International_UJAR-2022.pdf
[67] Trial International, *Universal Jurisdiction Annual Review 2023*, Óp. Cit.

Government) and reports on other crimes against humanity committed during the dictatorship.[68].

In this regard, in **September 2024**, Judge Servini de Cubría ratified that the facts under investigation are not subject to statutes of limitation as they concern potential crimes against humanity, rejecting the defendant's request to archive the case[69].

To date, Martín Villa's has been the only hearing to take place, and thus he is the only person under investigation who has been formally charged, but the case is expected to continue advancing against the defendants who are still living. In her latest statements, Judge Servini announced that she has again requested information from the Spanish authorities to support the status of Francoist crimes as crimes against humanity and ratified that the process would move forward as long as the Spanish government provides support for it[70].

Thus, although Spanish authorities have resisted the Argentine investigation in multiple ways over the years—blocking requests for victims to testify on Spanish soil, among others–[71], this has been a **major breakthrough for victims** seeking reparation for crimes committed by officials of the Francoist dictatorship. Thanks to the case—which remains open—a documentary record of the crimes allegedly committed has been obtained; victims were granted access to testify before a public authority for the first time in their lives, which in itself constitutes a principle of reparation; a more prominent procedural role was given to victims—indispensable in cases like these where the defendants are politically powerful individuals; and it led to the discovery of mass graves, with the consequent exhumation and identification of numerous victims.

Likewise, a transcendental milestone has been achieved within the case by **crossing the temporal barrier of the first democratic elections in 1977** with the case of Gustavo Adolfo Muñoz Bustillo, where it was resolved that to the extent it is determined that a case involves the same modus operandi as in the dictatorship, it is understood that the regime had not been dismantled at the time of the events, and therefore it must be judged within the framework of Francoist crimes. Through this resolution, events such as the repression of

[68] El Salto, The only lawsuit against Francoism that remains alive in the world, March 30, 2024: https://www.elsaltodiario.com/memoria-historica/unica-querella-franquismo-permanece-viva-mundo
[69] Sara Plaza Casares, Argentine justice refuses to file away the lawsuit against Francoism crimes, El Salto, 2024: https://www.elsaltodiario.com/querella-argentina-contra-los-crimenes-del-franquismo/justicia-argentina-se-niega-archivar-querella-crimenes-del-franquismo
[70] Ana Delicado Palacios, María Servini: "Argentina will move forward in the Francoism case as long as the Spanish Government supports us", El Salto, 2024: https://www.elsaltodiario.com/argentina/maria-servini-argentina-avanzara-causa-del-franquismo-gobierno-espanol-nos-apoye
[71] Irene Vázquez Serrano, The principle of universal jurisdiction, Op. Cit.

the Sanfermines in 1978 or the pro-Amnesty week of May 1977, among others, can be investigated by the Argentine judiciary[72].

The Venezuela Case

In **June 2023**, the Clooney Foundation for Justice, representing the relatives of two victims of murder and violence that occurred in Venezuela in 2014, filed a **complaint** before the Argentine justice system under the principle of universal jurisdiction. The complaint accuses Nicolás Maduro and other members of his administration of carrying out a systematic plan aimed at the commission of crimes against humanity[73].

This approach is framed within a context of increasing repression exerted by Venezuelan authorities in the country, which dates back at least to 2014 and continues to the present, showing a notable escalation in human rights violations in recent years. The use of arbitrary detentions, enforced disappearances, the absence of minimum guarantees for a fair trial, and constant attacks on human rights organizations and defenders have become daily practices in the country[74].

A previous complaint by the Foundation for Aid to Democracies at Risk—hereinafter FADER—was joined and unified into the same case. This initial complaint had remained inactive because Argentina, along with other States, had already filed a referral before the International Criminal Court —hereinafter ICC— regarding these facts[75]. The private prosecution (querella) promoted by the Clooney Foundation for Justice also has the support of the Argentine Forum for the Defense of Democracy— hereinafter FADD— and the contribution of various human rights organizations that have appeared as amicus curiae (friend of the court), such as Amnesty International, which has underscored the need to advance with a trial in Argentine territory given the lack of will on the part of Venezuelan authorities to carry out adequate investigations and effective sanctions against those responsible[76].

The case is pending before the National Federal Criminal and Correctional Court No. 2. Its presiding judge, Sebastián Ramos, ruled after an analysis of

[72] Ibidem; Trial International, *Universal Jurisdiction Annual Review 2021: A year like no other? The impact of coronavirus on universal jurisdiction*, 2021: https://trialinternational.org/latest-post/ujar-2021/

[73] Swissinfo.ch, George Clooney's Foundation denounces human rights violations in Argentina regarding Venezuela, 2023: https://www.swissinfo.ch/spa/la-fundaci%C3%B3n-de-george-clooney-denuncia-en-argentina-violaciones-de-ddhh-en-venezuela/48590496 Trial International, *Universal Jurisdiction Annual Review 2024*, Óp. Cit.

[74] Amnesty International, Amicus curiae for the consideration of the Honorable National Federal Criminal and Correctional Court No. 2 of the Argentine Republic, Case No. 2001/2023 case for crimes against humanity in Venezuela, 2023: https://www.amnesty.org/es/documents/amr53/7749/2024/es/

[75] Infobae, Argentine justice notified Interpol of the arrest warrant for Maduro, but there are doubts regarding its enforcement, 2024: https://www.infobae.com/judiciales/2024/11/05/la-justicia-argentina-notifico-a-interpol-de-la-orden-de-captura-para-maduro-pero-hay-dudas-sobre-su-cumplimiento/

[76] Amnesty International, Amicus curiae for the consideration of the Honorable National Federal Criminal and Correctional Court No. 2 of the Argentine Republic, Op. Cit.

the case that he **lacked jurisdiction** to continue with the process, understanding that these were the same facts already being investigated by the ICC. Consequently, he resolved to conclude the investigation and refer the information to the ICC so that, if applicable, the facts could be investigated within the framework of the proceedings ongoing there[77].

Nevertheless, and resolving the appeal filed by the private prosecution and the public prosecutor's office, on **April 5, 2024**, the Federal Court of Appeals in criminal matters of the city of Buenos Aires ordered the **reopening of the investigation** against Nicolás Maduro and other high-ranking Venezuelan officials[78].

In this sense, the Chamber understood that the Argentine justice system should initiate an investigation autonomous from that of the ICC, taking into account the protective purposes of international law, universal jurisdiction, and the need to avoid further harm, given that the facts reported in the case are of extreme gravity and—if no action is taken—could generate new and serious injuries to human rights. Likewise, it ruled that the reported facts could be novel, distinct, and even exceed those integrating the matter reported and processed before the ICC—thus being complementary investigations—without prejudice to future motions related to issues of double jeopardy (ne bis in idem) that may be resolved at a more advanced and appropriate time[79].

The Venezuelan State expressed its opposition and lack of cooperation regarding the decision of the Argentine courts to proceed with the investigation. The Foreign Ministry maintained that said resolution lacked jurisdictional grounds and constituted a violation of state sovereignty, as well as the immunities and privileges enjoyed by high-ranking officials[80].

On **September 17, 2024**, in a hearing convened by the Chamber, **testimonies** were heard—some under identity protection—from a group of victims seeking refuge in Argentina, who recounted persecutions, illegal detentions, and torture suffered during the last decade. Following the hearing, the private prosecution, together with the public prosecutor's office, requested that the arrest and summons for inquiry (declaración indagatoria) of the

[77] Infobae, The case seeking to investigate crimes occurred in Venezuela was closed in Argentina: the evidence will be sent to the International Criminal Court, 2023: https://www.infobae.com/judiciales/2024/03/04/cerraron-la-causa-que-buscaba-investigar-en-argentina-crimenes-ocurridos-en-venezuela-las-pruebas-seran-enviadas-a-la-corte-penal-internacional/

[78] Argentine Legal Information System (SAIJ), The Argentine federal justice system will investigate the government of Nicolás Maduro for crimes and human rights violations, Judgment of the National Federal Criminal and Correctional Court of Appeals, Federal Capital, Autonomous City of Buenos Aires, April 5, 2024, SAIJ ID: NV41726: https://www.saij.gob.ar/justicia-federal-argentina-investigara-al-gobierno-nicolas-maduro-crimenes-violaciones-derechos-humanos-nv41726-2024-04-05/123456789-0abc-627-14ti-lpssedadevon

[79] Ibidem.

[80] DW News, Venezuela: arrest warrant against Maduro is "ridiculous", 2024: https://www.dw.com/es/venezuela-califica-de-rid%C3%ADcula-orden-de-captura-argentina-contra-maduro/a-70317860?utm_source=chatgpt.com

investigated individuals be ordered. However, the first-instance judge rejected the request, considering that sufficient and necessary evidentiary measures to adopt these steps were not yet available[81].

On **September 23, 2024**, the National Federal Criminal and Correctional Appeals Chamber instructed —in response to the appeal by the private prosecution and the public prosecutor's office— the **arrest** of the President of the Republic of Venezuela, Nicolás Maduro, and his Minister of Interior Relations, Justice, and Peace, Diosdado Cabello—among 14 other administration officials—for the commission of crimes against humanity. This was within a systematic plan of repression, enforced disappearance of persons, torture, homicides, and persecution against a portion of the civilian population, developed at least **since 2014 to the present**. An international capture warrant via Interpol must be arranged for their extradition to the Argentine Republic. Likewise, it resolved the unification of all cases against Venezuela in Dr. Ramos's court and instructed the first-instance judge to proceed in the same manner regarding the intervening command structures identified hereafter, as well as those other responsible parties not yet individualized who acted within the framework of the investigated periods[82].

Thus, considering the gravity and urgency of the reported facts—which continue to be perpetrated to date—as well as the certain risk that the defendants might obstruct the process, the country's federal justice system understood that the arrest order was appropriate and necessary to put an end to this criminal plot and prevent the commission of new and irreparable human rights violations[83].

Furthermore, in the resolution, the judges understood that after hearing the witnesses, "the experiences suffered by the victims are eloquently revealed—which seem to exhibit a common pattern in state actions—and are reflected in the [17] reports from international organizations that expose (...) the [Venezuelan Government's] lack of interest in adhering to democratic rules." They also concluded that the gathered evidence was sufficient for the first-instance judge to urgently arrange the summons of Nicolás Maduro and Diosdado Cabello to provide an **inquiry statement**[84].

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[81] Clooney Foundation for Justice (CFJ), Venezuelan victims of serious human rights abuses testify in a historic hearing in Argentina, 2024: https://cfj.org/news/venezuelan-victims-of-grave-human-rights-abuses-testify-in-a-landmark-hearing-in-argentina/

[82] Argentine Federal Justice ordered the international arrest of Nicolás Maduro, Judgment of the National Federal Criminal and Correctional Court of Appeals, Federal Capital, Autonomous City of Buenos Aires, SAIJ ID: NV43996, September 23, 2024: https://www.saij.gob.ar/justicia-federal-argentina-ordeno-captura-internacional-nicolas-maduro-nv43996-2024-09-23/123456789-0abc-699-34ti-lpssedadevon?

[83] Ibidem.

[84] El País, Argentine justice seeks the international arrest of Nicolás Maduro for "kidnappings, torture, murders", 2024:: https://elpais.com/argentina/2024-09-24/la-justicia-argentina-pide-la-captura-internacional-de-nicolas-maduro-por-secuestros-torturas-asesinatos.html

In compliance with this, on **September 25, 2024**, the first-instance judge notified Interpol via official letter of the capture request[85] issued against the defendants, requesting that information for their identification, arrest, and extradition be gathered urgently. The resolution represented a historic milestone in the search for accountability for the high commands of the Bolivarian regime, as it enables proceeding in the same manner regarding command structures identified in the future, as well as those other responsible parties not yet individualized who acted within the framework of the periods under investigation. In this way, the decision substantially broadens the scope of accountability and opens the possibility of effective justice for victims who have not found answers in the domestic sphere.

The response from the entirety of the Venezuelan government was an angry opposition to the Argentine judicial decision[86].

In this context, in **May 2025**, a new complaint was filed before the Argentine federal justice system against the Venezuelan regime by the Apolo Foundation. In it, it was maintained that the government of Nicolás Maduro carried out illegal tracking, threats, and surveillance against citizens who left Venezuela and took refuge in Argentina—including José Zambrano Erazo, son of a former official of the Venezuelan Ministry of Culture. The Foundation requested an investigation into the alleged commission of crimes of aggravated unlawful association, concealment, and aggravated threats, further arguing that the facts could constitute crimes against humanity insofar as they were motivated by political reasons[87].

A strong conflict exists regarding the issue of the former leader's **immunity**. In this regard, a **part of Argentine doctrine** understood that this debate had already been resolved by the jurisprudence of the International Court of Justice—hereinafter ICJ—which identified four cases where an official's immunity can be lifted, in the context of an arrest warrant against Yerodia Ndombasi for war crimes and crimes against humanity prior to his holding the Foreign Affairs portfolio in the Government of the Democratic Republic of the Congo, processed before the Belgian judiciary.

In that case, the ICJ understood that the immunity of an official or high-ranking leader could be lifted if: (1) they are tried by the courts of their own country, if national laws allow it; (2) if the State they represent voluntarily decides to waive the immunity of its official; (3) they are acts committed

[85] EFE International, Argentine Justice notifies Interpol regarding the arrest warrant for Nicolás Maduro, 2024: https://efe.com/mundo/2024-09-25/argentina-interpol-captura-maduro/
[86] Swissinfo.ch, Venezuela labels the arrest warrant issued by Argentina against Maduro as "ridiculous", 2024: https://www.france24.com/es/am%C3%A9rica-latina/20240925-venezuela-tilda-de-rid%C3%ADcula-la-orden-de-captura-emitida-por-argentina-contra-maduro
[87] Tiempo Judicial, Espionage network linked to Chavismo denounced for persecuting Venezuelan exiles in Argentina, 2025: https://tiempojudicial.com/2025/05/13/denuncian-una-red-de-espionaje-ligada-al-chavismo-que-persigue-exiliados-venezolanos-en-argentina/

before or after the end of their mandate, or when they are acts committed during their mandate but of a private nature; (4) certain international criminal courts have jurisdiction over those facts. Taking that jurisprudence, part of Argentine doctrine affirmed that the latter circumstance applies to the case against Maduro because the assumption is met that an international criminal court possesses jurisdiction—in this case, the Argentine court carrying out the proceedings. Despite this, it remains a debate that is not settled, nor has it been translated into a jurisprudential development in the reference process[88].

Within the framework of the case and following the forced abduction of Nicolás Maduro by the United States, on **January 5, 2026,** federal prosecutor Carlos Stornelli joined the petition of two of the complainant organizations —FADER and FADD— and requested the National Federal Criminal and Correctional Court No. 2 to initiate the extradition process to the Argentine Republic for the Venezuelan leader.

In this context, on **January 7, 2026**, the Federal Chamber rejected a motion filed by one of the defendant parties and ratified the jurisdiction of the Argentine justice system to investigate crimes against humanity in Venezuela[89], confirming that the case filed under universal jurisdiction will continue its course as decided in November of last year by the first-instance court. The judges noted that the defensive arguments constitute a reiteration of arguments already discarded by the Chamber itself in 2024, when Argentine jurisdiction to investigate and judge the facts was declared. In said resolution, the Chamber also rejected the exemption from prison for Justo José Noguera Pietri —former commander of the Bolivarian National Guard— who had promoted the claim, and who —like Nicolás Maduro and Diosdado Cabello— has had an international arrest warrant and a summons for inquiry since September 2024.

Likewise, in response to the petitions from the private prosecution and the public prosecutor's office, on **February 4, 2026**, Judge Sebastián Ramos ordered the issuance of an international letter rogatory to the competent authorities of the United States of America for the purpose of requesting the extradition of Nicolás Maduro, with the aim of subjecting Maduro to criminal proceedings in Argentina and fulfilling the summons for an inquiry statement. The request is based on the Extradition Treaty signed between the Argentine Republic and the United States on June 10, 1997; in this sense,

[88] Alberto Zuppi, On lessons from past experiences and challenges of current cases, Workshop: Universal Jurisdiction in Argentina. Challenges and lessons learned in the fight against impunity, Gioja Institute and Faculty of Law of the University of Buenos Aires, 2024: https://www.youtube.com/live/l18ue4Gs1o0?si=M7nOXg2-MXD9srLl

[89] Infobae, The Argentine Justice system's competence to investigate crimes against humanity in Venezuela is reaffirmed, January 7, 2026: https://www.infobae.com/judiciales/2026/01/07/reiteran-que-la-justicia-argentina-es-competente-para-investigar-delitos-de-lesa-humanidad-en-venezuela/

the request will be channeled through the Directorate of International Legal Assistance of the Ministry of Foreign Affairs, International Trade, and Worship. Simultaneously, the judge ordered that the Interpol department of the Argentine Federal Police be notified of the resolution, ratifying the validity of the international red notices pending against Nicolás Maduro and other hierarchies of his government, such as Diosdado Cabello[90].

The latest movement in the case was recorded in **March 2026**, when federal prosecutor Carlos Stornelli requested to expand the summons for an inquiry statement for Diosdado Cabello, due to the threats he allegedly directed against opposition activist Elisa Trotta Gamus and her mother —which reportedly occurred on December 3, 2025, during the television program Con el Mazo Dando, which he hosts— facts that the prosecution considers part of a context of systematic persecution against opponents of the Venezuelan government. The accusation maintains that this type of public exposure is part of a strategy of intimidation and targeting of opponents, linked to repressive practices of the Venezuelan State —such as the so-called "Operation Tun Tun"— and framed within a generalized and systematic attack against the civilian population[91].

Álvaro Uribe Vélez and the "False Positives" in Colombia

On **November 7, 2023,** relatives of 11 fatalities of crimes against humanity committed in Colombia—4 identified and 7 unidentified—together with three human rights organizations—the Committee of Solidarity with Political Prisoners, the José Alvear Restrepo Lawyers' Collective (hereinafter CAJAR), and the Corporación Jurídica Libertad—filed a **complaint** in Argentina under the principle of Universal Jurisdiction against former President Álvaro Uribe Vélez in relation to the so-called “false positives.” The complaint maintains that these crimes were permitted, authorized, incited, and even promoted by the former leader[92].

[90] Infobae, Argentine Justice requested the extradition of Nicolás Maduro from the US to question him for crimes against humanity, February 4, 2026: https://www.infobae.com/judiciales/2026/02/04/la-justicia-argentina-pidio-a-eeuu-la-extradicion-de-nicolas-maduro-para-indagarlo-por-crimenes-de-lesa-humanidad/; Los Ángeles Times, Juez argentino solicita a United States, Extradition of Maduro to be tried for crimes against humanity, February 4, 2026.: https://www.latimes.com/espanol/internacional/articulo/2026-02-04/juez-argentino-solicita-eeuu-extradicion-de-maduro-para-ser-juzgado-por-crimenes-de-lesa-humanidad; El País, Argentine justice requests the extradition of Nicolás Maduro from the United States, February 4, 2026: https://elpais.com/argentina/2026-02-04/la-justicia-argentina-solicita-a-estados-unidos-la-extradicion-de-nicolas-maduro.html

[91] TN International, Argentine justice requested to expand the interrogation of Diosdado Cabello for threats against Elisa Trotta, March 12, 2026: https://tn.com.ar/internacional/2026/03/12/la-justicia-argentina-pidio-ampliar-la-indagatoria-de-diosdado-cabello-por-amenazas-a-elisa-trotta/

[92] Trial International, *Universal Jurisdiction Annual Review 2024*, 2024: https://trialinternational.org/wp-content/uploads/2024/04/UJAR-2024_digital.pdf

In this instance, the presence of accompanying organizations played a key role in the advancement of the case, as they allowed for the establishment of the general context of state repression in which the reported facts occurred in meticulous detail and provided close support to the victims, which was and remains fundamental in the face of existing geographical gaps[93]. The private prosecution (querella) also has the backing of international non-governmental organizations and the accompaniment of Argentine human rights organizations[94].

The complaint focuses on acts committed between 2002 and 2008, when, within the framework of a widespread and systematic attack against the civilian population, state security agents—particularly members of the national army—executed and subsequently disappeared at least 6,402 civilians and other persons protected by international humanitarian law. Most of the victims were young people from vulnerable sectors, usually lured with promises of work, executed by soldiers, and subsequently dressed in guerrilla attire[95].

These **extrajudicial executions** were illegitimately presented as "combat kills" within the framework of alleged clashes between guerrillas and the Colombian Army, with the aim of "inflating" statistics and projecting the image that the army was winning the war. The basis of the complaint is not limited to the former president's hierarchical position as "commander-in-chief of the armed forces"; on the contrary, it maintains that Uribe Vélez had early knowledge of this practice, as complaints from relatives, media, and organizations were recurrent during his mandate. In this regard, he not only failed to adopt measures to stop it but also dismissed and disqualified the complaints filed, and even established a system of incentives and continued to pressure army troops to report combat kills, an indicator that constituted the main criterion for the success of his Democratic Security policy[96].

In this sense, on **November 13, 2023**, the National Federal Criminal and Correctional Court No. 2 of Buenos Aires, presided over by Judge Sebastián Ramos—who is hearing the case—issued letters rogatory to the Office of the Prosecutor of the ICC requesting information about the preliminary

[93] Máximo Castex, From the case against Francoism to the Colombian case. Experiences and lessons learned, Op. Cit.
[94] Francisco Cortés Rodas, Universal jurisdiction and the fight against impunity, La Silla Vacía, 2024: https://www.lasillavacia.com/red-de-expertos/red-de-la-paz/la-jurisdiccion-universal-y-la-lucha-contra-la-impunidad/ EL PAÍS, Álvaro Uribe, denounced before the Argentine justice system for 'false positives', 2023: https://elpais.com/america-colombia/2023-11-09/alvaro-uribe-denunciado-ante-la-justicia-argentina-por-los-falsos-positivos.html Trial International, *Universal Jurisdiction Annual Review 2024*, Óp. Cit.
[95] Cajar Prensa, Victims of crimes against humanity committed in Colombia file a criminal complaint in Argentina under the principle of Universal Jurisdiction against former President Álvaro Uribe Vélez, 2023: https://www.colectivodeabogados.org/victimas-de-crimenes-de-lesa-humanidad-cometidos-en-colombia-interponen-querella-en-argentina-al-amparo-del-principio-de-jurisdiccion-universal-contra-expresidente-alvaro-uribe-velez/
[96] Ibidem.

investigation into the situation in Colombia and inquiring about the existence of any investigation against Álvaro Uribe Vélez for the same facts subject to the complaint, requesting that all information on cases processed before it regarding these reported facts be forwarded[97].

On **December 23, 2023**, the Federal Prosecutor No. 4—Dr. Carlos Stornelli—presented a request to the court to begin processing **evidentiary measures** in the investigation[98]. These included the issuance of letters rogatory addressed to the Colombian authorities requesting, among others, information on the facts, directives issued by the Ministry of Defense and the Military Forces, decisions adopted by the Special Jurisdiction for Peace (hereinafter JEP), the hearing of testimonies from the victim-complainants, and information on the existence of investigations in the country for the same facts against the accused.

Subsequently, the process saw slow progress and was paralyzed for a time due to the delay in the response to the letters rogatory requested from the International Criminal Court (ICC) and the Colombian government by the court[99].

The letter rogatory from the international court was answered on **April 29, 2024**, stating that there were **no open investigations at the ICC in this regard** —the one that had begun based on these facts had allegedly been archived— a response that was transmitted to the court by the Argentine Ministry of Foreign Affairs on the following June 26. The response with information corresponding to the status of the cases pursued before the judiciary of the country of the facts was also obtained at those instances[100].

According to what was mentioned in the responses to the letters rogatory, and coinciding with the arguments of the private prosecution, the Argentine justice system would have jurisdiction to intervene in the case, given that the reported facts are not being investigated by an international court nor by the ordinary or extraordinary justice system of Colombia. In particular, the **JEP** —a transitional justice model created within the framework of the Peace Accords— does not have the power to summon sitting and former presidents

[97] Cajar Prensa, Buenos Aires Court recognized victims who filed a criminal complaint against Álvaro Uribe Vélez, 2024: https://www.colectivodeabogados.org/juzgado-de-buenos-aires-reconoce-a-victimas-que-interpusieron-querella-contra-alvaro-uribe-velez/

[98] Cajar Prensa, Argentine prosecutor requests the collection of evidence in the criminal investigation against former President Álvaro Uribe Vélez for crimes against humanity, 2024: https://www.colectivodeabogados.org/fiscal-argentino-pide-practicar-pruebas-en-la-investigacion-penal-por-crimenes-de-lesa-humanidad-contra-expresidente-alvaro-uribe-velez/

[99] Interview with lawyer and international advisor Bénédict De Moerloose, November 14, 2025. In FIBGAR, Proclamation against impunity: Victims of the "false positives" appeal the dismissal of the Argentine case against Álvaro Uribe Vélez, by Federica Carnevale, 2025: https://fibgar.es/proclama-contra-la-impunidad-victimas-de-los-falsos-positivos-apelan-el-archivo-del-caso-argentino-contra-alvaro-uribe-velez/

[100] Ibidem.

to appear, also excluding non-combatant civilians from its criminal field of action, which only includes members of the FARC and state agents. Likewise, the **Accusations Commission of the House of Representatives** —the special forum competent to investigate presidents and former presidents— has not made progress in serious, impartial, and effective investigations against Uribe Vélez for these facts[101].

In this manner, on **July 1, 2024**, the court decided to **admit the criminal case** against the former Colombian president, allowed the filing of the querella, and recognized that the complainants have the full right to act in the process, as they are recognized as victims for having been clearly affected by the reported facts[102]. This admissibility, in addition to initiating the expansion of relevant investigations in the case—such as the possibility of turning to experts to contribute to the clarification of the identity and location of the unidentified victims—makes feasible the joinder of other victims and organizations in the aforementioned process. This represented a historic step in the fight against impunity for Colombian victims, as it opened the door for a former president of the country to be internationally investigated for the first time for his alleged responsibility in crimes against humanity.

An aspect of particular relevance in this case is that the lessons learned from previous processes have served to provide the complaint with greater solidity. Drawing on the experience of the Francoism case, the court recognized the aunt of one of the murdered persons as a victim, applying a broad interpretation of the concept of standing (legitimación activa). This decision reflects the importance of considering relatives as indirect victims and demonstrates how precedents in universal jurisdiction strengthen the new processes opened in Argentina[103].

Despite the rapid response regarding the closure of international investigations, the Office of the Prosecutor of the ICC delayed the response regarding the grounds and conditions that motivated the archiving of the case, which kept the process in Argentina paralyzed in the preliminary stage. In this context, the work of the private prosecution has been fundamental, as, with the accompaniment of the Public Prosecutor's Office (Ministerio Público Fiscal), in **August 2025** they provided copies of the ICC report—providing evidence of compliance with the principle of subsidiarity and the absence of serious, immediate, exhaustive, and impartial investigations into the reported facts—and insisted on the need to hear the victims and the organizations admitted as complainants[104]. In that filing, they also requested to move

[101] Francisco Cortés Rodas, Universal jurisdiction and the fight against impunity, Op. Cit.. Trial International, *Universal Jurisdiction Annual Review 2024*, Óp. Cit.
[102] Página 12, Argentine justice will investigate former Colombian President Álvaro Uribe, 2024: https://www.pagina12.com.ar/750014-la-justicia-argentina-investigara-al-expresidente-colombiano
[103] Máximo Castex, From the case against Francoism to the Colombian case. Experiences and lessons learned, Op. Cit.
[104] Ibidem.

forward with the taking of testimonial statements from the victims, emphasizing that—in this case—universal jurisdiction represents the only viable path to guarantee access to truth and justice[105].

Despite this, after nearly two years of **preliminary review**, the judge in the case recently ordered the **closure and archiving of the case**. For this latest resolution, he reportedly relied on the decision of the ICC, which in its preliminary investigation affirmed the existence of a functional judicial system in Colombia. The judge understood that if the ICC had already ruled out continuing the investigation, there were no grounds for the Argentine federal justice system to continue with it[106].

In view of this situation, the victims **appealed** and presented arguments explaining why the case should continue and not be archived. Primarily, the private prosecution asserts that the decision does not reflect the reality of the Colombian justice system and that the court's decision is not based on the prevailing jurisprudence in Argentina, which understands that cases of serious international crimes must be investigated if there is no genuine, effective, and efficient investigation in the country where the facts occurred[107].

In this regard, the private prosecution highlighted the situation of the Colombian jurisdiction. On the one hand, it reiterated that the Special Jurisdiction for Peace (JEP), despite investigating the extrajudicial executions known as “false positives,” does not do so against Álvaro Uribe Vélez himself, as he is outside its jurisdiction. In this way, it is understood that the JEP does not perform a global and total justice, giving rise to a space of impunity regarding certain political figures. On the other hand, although the Investigation and Accusation Commission of the Colombian Congress —competent to prosecute former presidents, but which has never brought a head of state to trial— is carrying out two investigations against the former leader, it is not doing so in a genuine manner regarding the facts that ground the complaint filed in Argentina.

Furthermore, the appeal explained that its political nature prevents substantial progress in investigations of this type. Not only are both cases still in the preliminary stage, but one of them is under investigation by Representative Hernán Cadavid, a member of the same political party as Álvaro Uribe Vélez. Moreover, as it is not an investigative body but a political one, the Commission does not comply with the guarantees of due process

[105] EL PAÍS, The status of the complaint against Álvaro Uribe for "false positives" in Argentina, 2025: https://elpais.com/america-colombia/2025-08-19/asi-va-en-argentina-la-denuncia-contra-alvaro-uribe-por-los-falsos-positivos.html
[106] Interview with lawyer and international advisor Bénédict De Moerloose, November 14, 2025. In FIBGAR, Proclamation against impunity: Victims of the "false positives" appeal the dismissal of the Argentine case against Álvaro Uribe Vélez, by Federica Carnevale, Op. Cit.
[107] Ibidem.

because, in addition to the aforementioned lack of impartiality and other assumptions, no appeal is possible against its resolutions[108].

In this way, the private prosecution understood that the **principle of subsidiarity** applied by the Argentine justice system is satisfied, as there are no genuine investigations underway in Colombia, nor is there a jurisdiction in a position to judge those facts. Consequently, they **requested that the course of the case continue**, based on the Argentine constitutional and legal mandate to pursue crimes against humanity when there is no effective justice in the country where the facts occurred.

In the federal criminal justice system, when this appeal is filed, the first-instance court reviews it and then must elevate it to the Court of Appeals. But in this case, **the judge ordered that the accused be notified via letter rogatory** as a prior condition to elevating the case to the second instance. In that sense, it was necessary to wait for the Argentine Foreign Ministry to receive confirmation that Álvaro Uribe Vélez had been notified; following this, the process could continue its course within the framework of the appeal (alzada), so that the hearing before the same and subsequent resolution could take place[109]. After several months, in March 2026, the process advanced, and the hearing date was set for **April 14, 2026**[110].

In this framework, various international and Argentine NGOs supported the request of the private prosecution and urged the Court of Appeals to reopen the investigation —World Organisation Against Torture (OMCT), European Center for Constitutional and Human Rights, and the Center for Legal and Social Studies (CELS)[111].

It is not unusual for the Argentine federal justice system of first instance to archive universal jurisdiction cases, even before a formal investigation begins. This has been seen in many proceedings that later had successful —and still ongoing— investigations and were brought to trial—for example, in the investigations into crimes of the Francoist regime in Spain, against the Rohingya people in Myanmar, and against the Uyghur population in China —because higher instances reversed those archives after the private prosecutions appealed[112].

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[108] Ibidem.
[109] Ibidem.
[110] Máximo Castex –plaintiff attorney in the case– in "Panel I: Critical Perspectives on Universal Jurisdiction" of the Regional Seminar "Universal Jurisdiction: Critical Perspectives from Latin America", IFBC and FIBGAR, Buenos Aires, March 26, 2026..
[111] World Organisation Against Torture (OMCT), Colombia: International organizations call on the Court of Appeals to reactivate the investigation to bring justice to the 6,402 victims of extrajudicial executions, Statements, November 5, 2025: https://www.omct.org/es/recursos/declaraciones/la-justicia-por-las-6402-v%C3%ADctimas-colombianas-de-ejecuciones-extrajudiciales-debe-continuar-organizaciones-internacionales-pedimos-a-la-c%C3%A1mara-de-apelaciones-reactivar-la-investigaci%C3%B3n-en-argentina
[112] Interview with lawyer and international advisor Bénédict De Moerloose, November 14, 2025. In FIBGAR, Proclamation against impunity: Victims of the "false positives" appeal the dismissal of the Argentine case against Álvaro Uribe Vélez, by Federica Carnevale, Op. Cit.

For this reason, **hope** remains strong within the framework of this case. In the coming months, it is expected that the judges of the Court of Appeals will accept these grounds and decide on the continuation of the investigation, so that the victims of the "false positives" can, once and for all, access the degree of justice they do not find in their own country.

Argentina has consolidated itself as one of the pioneer countries in the region in this way of delivering justice, as well as in the fight against impunity, and it is expected that the southern cone country will continue to exercise this role in a case that is not only one of the most relevant currently being carried out in the country in terms of universal jurisdiction, but also one of the few that addresses crimes committed in Latin America. In a continent where impunity has been persistent and, in many cases, structural, this investigation represents a horizon of justice, reminding us that the most serious crimes can —and must— be addressed with the tools of international law and with the victims placed at the center of the process.

Nicaragua and the Ortega-Murillo Case

Under the principle of universal jurisdiction, on **August 26, 2022,** Darío Richarte and other Argentine lawyers, as well as professors from the University of Buenos Aires—with the support of law students—filed a complaint against President Daniel Ortega, Vice President Rosario Murillo, and other officials of the Nicaraguan government for the alleged commission of crimes against humanity.

The **complaint** covers crimes such as murder, torture, enforced disappearance, political persecution, severe deprivation of liberty, and forced displacement. It focused on the events that occurred during the 2018 social protests in Nicaragua, in which repression reportedly materialized through the use of high-caliber ammunition by the police and paramilitary groups. All of this is part of a context of generalized suppression of freedoms through citizen control and surveillance, as well as repression via state and para-state security institutions, shielded under the control of the other branches of the State[113].

[113] El Confidencial, Darío Richarte: Investigation and trial against Ortega in Argentina will increase international pressure, 2022: https://confidencial.digital/confidencialtv/dario-richarte-investigacion-y-juicio-contra-ortega-en-argentina-elevara-la-presion-internacional/ ; Expediente Público, Darío Richarte calls for the creation of tools to end the dictatorship in Nicaragua, 2024: https://www.expedientepublico.org/dario-richarte-reclama-generar-herramientas-para-terminar-con-dictadura-en-nicaragua/ ; Artículo 66, Argentine justice has received seven expansions in the case against Ortega and Murillo for crimes against humanity, 2024: https://www.articulo66.com/2024/09/10/justicia-argentina-proceso-daniel-ortega-rosario-murillo-crimenes-lesa-humanidad/#google_vignette ; Inter-American Commission on Human Rights, Nicaragua: Concentration of Power and the Erosion of the Rule of Law, OAS/Ser.L/V/II., Doc. 288, October 25, 2021: https://www.oas.org/es/cidh/informes/pdfs/2021_Nicaragua-ES.pdf ; Trial International, Universal Jurisdiction Annual Review 2023, 2023:

This complaint was filed in the Federal Criminal Court No. 4, presided over by Judge Ariel Lijo, with the prosecution led by Dr. Eduardo Taiano.

Following the complaint, the judge ordered —as a first measure— the sending of a **letter rogatory** to Nicaragua and other international instances to ascertain whether there were ongoing investigations into the same facts. Simultaneously, within the framework of the **preliminary investigation**, various items of evidence were incorporated, including testimonies from victims who testified under identity protection. These evidentiary means revealed instances of murder, arbitrary deprivation of liberty, enforced disappearance, acts of torture, deportations, censorship, deprivation of medical care, suppression of professional licenses, political persecution, and the stripping of nationality. Furthermore, during this period, the legal team for the private prosecution presented **seven expansions of the complaint** so that the new reported facts could be incorporated and investigated by the prosecutor's office[114].

Considering the investigation stage concluded and deeming that the gathered evidentiary elements provided sufficient grounds to suspect that the individuals committed the crimes for which they were reported, the **prosecution** found it appropriate to accept the claims of the private prosecution and **formally requested the court to summon the defendants for an inquiry statement** (declaración indagatoria), as well as to issue arrest warrants and international capture orders against those involved in the crimes[115].

The fiscal request was based on the gravity of the allegations, as they concern crimes against humanity —which are non-bailable (no excarcelables) in Argentine jurisdiction— and on the need to guarantee that those responsible are subjected to the judicial process. Likewise, the prosecution maintained that the presidential couple and other Nicaraguan government officials had carried out a systematic and generalized plan of violent repression against the civilian population of Nicaragua, aimed at deterring social demonstrations and persecuting the political opposition.

Granting the prosecution's request, on **December 30, 2024**, the Federal Court ordered the issuance of **capture warrants** against the current President of Nicaragua, Daniel Ortega, the current Vice President, Rosario Murillo, and other government officials, for the purpose of guaranteeing their

https://trialinternational.org/wp-content/uploads/2023/11/UJAR-2023_13112023_updated.pdf ; Trial International, Universal Jurisdiction Annual Review 2024, Op. Cit.

[114] Ibidem.

[115] Confidencial, International arrest warrants requested in Argentina for Daniel Ortega and Rosario Murillo for crimes against humanity, 2024: https://confidencial.digital/politica/piden-en-argentina-la-captura-internacional-de-daniel-ortega-y-rosario-murillo-por-crimenes-de-lesa-humanidad/

appearance at the inquiry hearings[116]. This resolution constituted a novel and historic jurisprudential precedent in the international order, as it fell upon high-ranking sitting officials who, in principle, naturally enjoy the diplomatic immunities that their positions grant them.

In the **legal grounds** of the ruling, a report from the Inter-American Commission on Human Rights (hereinafter IACHR)[117], was decisive, in which it pronounced on the concentration of power and the weakening of the Rule of Law in Nicaragua. In this sense, the judge understood that the concentration of power in the hands of the Ortega-Murillos facilitated Nicaragua's transformation into a police state, where the Executive Branch has installed a regime of terror and the suppression of all freedoms through the systematic control and surveillance of the citizenry and repression via state and para-state security institutions, endorsed by the other branches of the State[118].

This decision materialized in a request to the **International Criminal Police Organization** (hereinafter Interpol) for data on these individuals for their subsequent inquiry. According to Argentine Federal Prosecutor Eduardo Taiano, ten out of the fifteen high-ranking officials required by the Argentine justice system have already been identified by Interpol, and that information has been forwarded to the Argentine judiciary. However, Interpol has not yet issued a red notice for their arrest[119].

To date, the arrest warrants have not been executed due to, among other factors, the lack of cooperation from local jurisdictions and the practice of Nicaraguan officials of not leaving national territory, making international capture in third countries impossible.

The Investigation Against Mohammed Bin Salman

To date, an investigation remains open in Argentina against the Saudi Prince Mohammed Bin Salman—the Kingdom's Minister of Defense—for his role in war crimes and gross human rights violations. The **complaint**, filed in **November 2018** by Kenneth Roth on behalf of Human Rights Watch (HRW),

[116] France 24, Argentine Justice orders international arrest warrants for the President of Nicaragua and his wife, 2024: https://www.france24.com/es/am%C3%A9rica-latina/20241231-la-justicia-argentina-ordena-captura-internacional-del-presidente-de-nicaragua-y-su-esposa La Nación, Argentine Justice issues an international arrest warrant for Daniel Ortega and Rosario Murillo, 2024: https://www.lanacion.com.ar/el-mundo/la-justicia-argentina-lanza-una-orden-de-arresto-internacional-contra-daniel-ortega-y-rosario-nid31122024/

[117] Inter-American Commission on Human Rights, Closure of Civic Space in Nicaragua, OAS/Ser.L/V/II. Doc. 212/23, September 23, 2023: https://www.oas.org/es/cidh/informes/pdfs/2023/Cierre_espacio_civico_Nicaragua_SPA.pdf

[118] El Confidencial, Argentine Justice summons Ortega and Murillo to testify and orders their international detention, 2024: https://confidencial.digital/politica/justicia-argentina-cita-a-declarar-y-ordena-detencion-internacional-de-ortega-y-murillo/

[119] El Confidencial, Interpol identifies ten high-ranking Sandinista officials required by the Argentine justice system, February 20, 2025: https://www.youtube.com/watch?v=BMbX6uvYMLM

points to facts involving indiscriminate and disproportionate bombings against civilians, the use of internationally prohibited cluster bombs, and the use of starvation as a war strategy—by restricting food imports—allegedly committed by the Saudi-led coalition in Yemen.

Likewise, acts of torture and mistreatment of Saudi citizens were reported, including cases of detained women activists who were subjected to electric shocks, beatings, and sexual abuse, as well as involvement in the death of journalist Jamal Khashoggi at the Saudi Consulate in Istanbul. The complaint was filed shortly before the prince arrived in the country for the G20 summit held in the city of Buenos Aires, requesting his arrest for the alleged war crimes committed by his country in Yemen[120].

The proceedings were assigned to the Federal Court No. 4, presided over by Judge Ariel Lijo. Thus, the complaint was **admitted for processing**, and the Argentine federal prosecutor's office—led by Ramiro González, the prosecutor who also heads the private prosecution for crimes committed during the Franco regime—began the corresponding investigation[121].

As a first measure, the prosecutor's office requested the court to issue **letters rogatory** inquiring whether the respondent is subject to ongoing proceedings for the same facts mentioned in the complaint in the Kingdom of Saudi Arabia, the Republic of Yemen, and the International Criminal Court. This is based on the principle of subsidiarity or complementarity of universal jurisdiction. Furthermore, the prosecutor requested that the Argentine Foreign Ministry be asked for a **report on the leader's status to determine whether he possesses diplomatic immunity**. The federal court granted the prosecutor's requests[122].

In addition, Judge Lijo required HRW to provide **additional details** for the purpose of identifying the victims and advancing the judicial investigation. In this sense, he requested that the circumstances of time and place of the

[120] The New York Times, International, Argentina could denounce the Saudi Crown Prince during the G20, 2018: https://www.nytimes.com/es/2018/11/27/espanol/argentina-arabia-saudita-g20.html Trial International, *Universal Jurisdiction Annual Review 2020: Terrorism and international crimes: prosecuting atrocities for what they are*, 2020: https://trialinternational.org/wp-content/uploads/2020/03/TRIAL-International_UJAR-2020_DIGITAL.pdf Trial International, *Universal Jurisdiction Annual Review 2022: Universal jurisdiction, an overlooked tool to fight conflict-related sexual violence*, 2022: https://trialinternational.org/wp-content/uploads/2022/03/TRIAL_International_UJAR-2022.pdf

[121] Human Rights Watch, G20: Saudi Crown Prince faces legal scrutiny, 2018: https://www.hrw.org/news/2018/11/26/g20-saudi-crown-prince-faces-legal-scrutiny?utm_source=chatgpt.com

[122] Cassandra Garrison, Argentine judge seeks help from Turkey and Yemen in Saudi Crown Prince case, Reuters, 2018: https://www.reuters.com/article/world/argentine-judge-seeks-help-from-turkey-yemen-in-saudi-crown-prince-case-idUSKCN1NX11S/ Infobae, The Judiciary requested reports from Turkey, Yemen, and the International Court regarding Prince Mohammed bin Salman, but he would not be detained in Argentina, 2018: https://www.infobae.com/g20/2018/11/28/la-justicia-argentina-libro-exhortos-a-arabia-saudita-y-yemen-tras-la-denuncia-por-delitos-de-lesa-humanidad-contra-el-principe-mohammed-bin-salman/

torture against the activists detained in Saudi Arabia in 2018, as stated in the complaint, be specified[123].

Despite these **initial advances**, the complexity of the procedure and the diplomatic status of the crown prince neutralized any possibility of arrest in 2018.

In **September 2021**, the Argentine judiciary also sent letters rogatory to Turkey for the purpose of forwarding related information and notifying whether any proceedings had been initiated in that country regarding the reported facts. To date, no responses have been received to the letters rogatory sent[124].

In **June 2024**, it was disclosed that the crown prince had allegedly been in the country on a visit of a confidential nature, but no movements were recorded in the case. As is evident, the case faces serious challenges due to the lack of concrete results, as well as the geographical and political distance between Argentina and Yemen[125].

The Case of the Uyghur People in China

On **August 16, 2022**, Omer Kanat —Executive Director and representative of the Uyghur Human Rights Project—, Dolkun Isa —President and representative of the World Uyghur Congress—, and Michael Polak —Chairman and representative of Lawyers for Uyghur Rights— appeared before the federal criminal courts of Buenos Aires to file a complaint against officials of the People's Republic of China, accusing them of carrying out genocide and crimes against humanity against the Uyghurs —a population of eight million people living in a “police state” in the Xīnjiāng Autonomous Region— and other Turkic Muslim ethnic groups[126].

This **complaint** —the first of its kind regarding these facts framed under the principle of universal jurisdiction— claims that the Chinese government has ordered more than one million arbitrary detentions of Uyghurs and other Turkic Muslim groups for their subsequent confinement in re-education and forced labor camps. Furthermore, the complaint reported enforced

[123] Ibidem.
[124] Trial International, *Universal Jurisdiction Annual Review 2024*, Óp. Cit.
[125] Clarín, The powerful Crown Prince of Saudi Arabia visited Argentina last week on a "private trip", 2024: https://www.clarin.com/politica/poderoso-principe-heredero-arabia-saudita-visito-semana-pasada-argentina-viaje-privado_0_IgS9jwb91E.html?srsltid=AfmBOorgwz3CZOyp08hWn0cfMG89adXY1x4bfeig2PjFFblnrcnFflz2
[126] Uyghur Human Rights Project, UHRP and WUC lawyers file universal jurisdiction complaint before Argentine criminal courts for genocide and crimes against humanity, 2022: https://uhrp.org/statement/lawyers-acting-for-uhrp-and-wuc-submit-universal-jurisdiction-complaint-to-the-criminal-courts-of-argentina/ La Nación, Uyghur ethnicity: why the minority persecuted in China chose Argentina to denounce the regime's atrocities despite close diplomatic ties, 2022: https://www.lanacion.com.ar/el-mundo/etnia-uigur-por-que-la-minoria-perseguida-en-china-eligio-la-argentina-para-denunciar-las-nid18082022/

disappearances, birth prevention policies targeting these communities, the separation of families, and other actions aimed at their cultural destruction.

Moreover, the private prosecution (querella) asserted that all these actions were carried out within the framework of the implementation of a government program launched in May 2014, known as the "Strike Hard Campaign Against Violent Terrorism." It is claimed that this program, in a clear instrumentalization of the fight against terrorism, was used for the persecution of members of the Uyghur community, thereby distorting said concept and violating human rights[127].

The case, docketed as **Case No. 2774/2022**, was assigned to the National Federal Criminal and Correctional Court No. 7 of Buenos Aires, presided over by Judge Sebastián Casanello.

Initially, the prosecutor in charge of the case —Alejandra Mángano— requested the adoption of **preliminary measures** to determine the appropriateness of opening an investigation. Within this framework, she requested information via letters rogatory to the People's Republic of China inquiring about the existence of judicial proceedings related to the reported facts and, through the Directorate of International Legal Assistance of the Ministry of Foreign Affairs—hereinafter DAJIN—requested that similar inquiries be directed to the International Criminal Court (ICC), the International Court of Justice (ICJ), and other international criminal tribunals[128].

The federal court deemed it unnecessary to officially communicate with the ICJ, as it lacks criminal jurisdiction, or with the ICC, since China is not a party to the Rome Statute; however, it did so with third countries that might or might not have links to these facts.

Consequently, considering the responses from DAJIN, the court held that there was at least one local investigation underway regarding the same reported facts in Turkey and/or France. Based on this, and following the recommendations of the prosecution, the court archived the investigation against the highest Chinese authorities by virtue of the principle of subsidiarity. The private prosecution appealed, but following the hearings on **December 21, 2023**[129], Chamber II of the Federal Chamber confirmed the archiving of the file, as well as the rejection of the human rights NGOs'

[127] Ibidem.
[128] Infobae, Argentine justice analyzes investigating the Chinese regime for human rights violations against the Uyghurs, 2023: https://www.infobae.com/judiciales/2023/04/18/la-justicia-argentina-analiza-investigar-al-regimen-chino-por-violaciones-a-los-derechos-humanos-de-los-uigures/
[129] Uyghur Human Rights Project, Court of Appeal hearing takes place in universal jurisdiction case in Argentina, 2023: https://uhrp.org/statement/court-of-appeal-hearing-takes-place-in-universal-jurisdiction-case-in-argentina/

request to be recognized as complainants, thereby confirming the closure of the investigation[130].

Despite this, on **July 11, 2024**, Chamber III of the Federal Chamber of Criminal Cassation —the highest federal criminal jurisdiction— granted the cassation appeal filed by the private prosecution. In doing so, it revoked the decision of the lower instances, considering that the existence of said investigations was not duly supported by the evidence in the case summary, and reopened the case for the purpose of continuing the relevant investigations[131].

The judges considered that, given the gravity of the facts reported by the prospective complainants, extreme care must be taken to obtain precise, reliable, and high-quality judicial information to properly justify an archiving of the proceedings and, if applicable, to rule out the exercise of universal jurisdiction. They noted that, in this case, there is no evidence in the record of international letters rogatory or data-gathering requests issued by the investigating court to confirm the information that arises in an overly generic manner from the report provided by the Argentine Ministry of Foreign Affairs, the source of which remains imprecise and undetermined.

Likewise, they understood that the rejection of the complainants' motion to participate as querellantes was arbitrary, as it failed to adequately explain the reasons why the complainants would not meet the legally required conditions. Thus—as in other resolutions—using a broad, progressive interpretation of the concept of "victim" in line with the National Constitution and international human rights commitments, the tribunal decided to accept the constitution of the private prosecution[132].

Despite this resolution, the **Court of Appeals refused to comply with the mandate of its superior court**.

As a result, on **June 18, 2025**, the National Court of Criminal Cassation, Argentina's highest criminal court, issued a historic ruling that reinforces the principle of universal jurisdiction and opens a door of hope for the Uyghur people. The new resolution not only **reaffirms the validity of the case** —unanimously resolving that there are no legal impediments to opening the criminal case for crimes against humanity and genocide— but also **demands**

[130] Infobae, Efforts underway in Argentina to reopen an investigation into crimes against humanity committed in China, 2024: https://www.infobae.com/judiciales/2024/02/15/buscan-que-desde-argentina-se-reabra-una-investigacion-por-crimenes-de-lesa-humanidad-cometidos-en-china/

[131] La Nación, "Universal Jurisdiction": a case is reopened in Argentina to investigate human rights violations in China, 2024: https://www.lanacion.com.ar/politica/jurisdiccion-universal-reabren-una-causa-para-investigar-en-argentina-violaciones-a-los-derechos-nid19072024/ Infobae, A new ruling was ordered to investigate crimes against humanity committed in China within Argentina, 2024: https://www.infobae.com/judiciales/2024/07/20/ordenaron-dictar-un-nuevo-fallo-para-investigar-en-argentina-crimenes-de-lesa-humanidad-cometidos-en-china/

[132] Ibidem.

the formation of a reconstituted Federal Court of Appeals to guarantee the effective opening of the case and the implementation of its rulings.[133].

For years, Uyghur victims were unable to find a judicial forum willing to move forward due to China's political weight and the limits of the international system. In this context, the actions of the Argentine judiciary once again demonstrate the potential of universal jurisdiction as a tool to confront impunity.

Myanmar and the Case of the Rohingya People

On **November 13, 2019**, a complaint was filed in the Argentine federal courts by Maung Tun Khin, president of the "Burmese Rohingya Organization UK" (hereinafter BROUK), with the support of the former United Nations Special Rapporteur on the situation of human rights in Myanmar (2008-2014), Tomás Ojea Quintana, who served as counsel for the complainants and for the human rights organizations that accompanied the complaint. Furthermore, the BROUK private prosecution (querella) was joined by the complaints of six women survivors of the Rohingya community. Additionally, numerous associations have appeared as amicus curiae (friends of the court) in the process, including Robert F. Kennedy Human Rights and Fortify Rights[134].

The **complaint** centered on the persecution and "clearance operations" —running at least from 2012 to 2018, a period during which Buddhists from Bangladesh were encouraged to settle in Rakhine State— against the Rohingya people, a predominantly Muslim ethnic minority considered a "negative otherness" that violates the socio-political, cultural, and religious system of that country. They are accused of being illegal immigrants, and their recognition as citizens is denied despite residing in the country for generations.

The complaint asserts that these violations were carried out by high-ranking military and civilian leaders of the Myanmar government, including State Counsellor Aung San Suu Kyi, and the Commander-in-Chief of the armed forces (or Tatmadaw), Min Aung Hlaing —who also led the coup d'état in February 2021— and former presidents U Htin Kyaw and U Thein Sein.

The **reported facts** included: widespread or systematic killings; gang rapes of women and children, and other acts of sexual violence; the destruction of

[133] Uyghur Human Rights Project, Argentina's highest criminal court rules in favor of proceeding with the Uyghur universal jurisdiction case, 2025: https://uhrp.org/statement/argentinas-highest-criminal-court-rules-in-favour-of-uyghur-universal-jurisdiction-case/

[134] Robert F. Kennedy Human Rights, Argentina: Prosecute serious crimes against the Rohingya in Myanmar, Press, 2021, at https://rfkhumanrights.org/press/argentina-procesar-graves-crimenes-contra-los-rohingyas-en-myanmar/ Trial International, Universal Jurisdiction Annual Review 2021: A year like no other? The impact of coronavirus on universal jurisdiction, Op. Cit.

villages through intentional fires; the confinement of Rohingyas in detention centers throughout Rakhine State—who continue to live today with restrictions on their freedom of movement and a lack of access to basic services such as education and health; and the forced displacement of more than one million members of this people to refugee camps in Bangladesh[135].

The complaint argued that these facts constituted genocide and crimes against humanity, giving rise to **Case No. 8429/2019**, which was filed in the National Criminal and Correctional Court No. 1, presided over by Federal Judge María Romilda Servini de Cubría. The federal prosecutor in the case is Dr. Guillermo Marijuan.

The private prosecution explained that the conflict in Myanmar, which resulted in the persecution of the Rohingya people, made it impossible to file criminal complaints at the local level and, therefore, the application of the principle of universal jurisdiction was essential and admissible[136]. Furthermore, it was alleged that the ICC investigations are limited to crimes perpetrated partially or entirely in Bangladesh[137] and do not include crimes committed in Myanmar, as the latter is not a State Party to the Rome Statute[138].

Despite this, in **December 2019**, the court of first instance **rejected the opening of the case**, arguing that the Argentine courts were not the appropriate forum, considering that the Office of the Prosecutor (OTP) of the ICC was already investigating crimes committed against the Rohingya. Both the private prosecution and the public prosecutor's office **appealed** this decision; consequently, starting on **August 17, 2021**, Chamber I of the National Federal Criminal and Correctional Appeals Chamber of the Federal Capita l—in appeal hearings— heard the **testimony** of five surviving Rohingya women, victims of sexual violence, who appeared remotely to speak about their experiences during the "clearance operations" of 2017[139].

Thus, in **November 2021** and after hearing the victims, the Chamber resolved to grant the appeal of the private prosecution and the public prosecutor's office, revoking the decision of Judge Servini de Cubría, who had dismissed and archived the complaint. This **allowed the case to proceed** and the criminal investigation against military and civilian officials of Myanmar to

[135] Página/12, Rohingya witnesses testify in Argentina about alleged war crimes in Myanmar, 2023: https://www.pagina12.com.ar/556633-testigos-rohingyas-declaran-en-argentina-sobre-presuntos-cri
[136] Robert F. Kennedy Human Rights, Argentina: Prosecute serious crimes against the Rohingya in Myanmar, Op. Cit.
[137] United Nations, UN News - Human Rights: The International Criminal Court will investigate alleged crimes against humanity against the Rohingya, 2019: https://news.un.org/es/story/2019/11/1465461
[138] Amnesty International, Myanmar: International Criminal Court's decision opens a clear pathway to justice for the Rohingya people, 2018: https://www.es.amnesty.org/en-que-estamos/noticias/noticia/articulo/myanmar-la-decision-de-la-corte-penal-internacional-abre-una-via-clara-para-obtener-justicia-para-l/
[139] Robert F. Kennedy Human Rights, Argentina: Prosecute serious crimes against the Rohingya in Myanmar, Op. Cit.

begin. In this way, it became the first investigation worldwide based on universal jurisdiction regarding the situation of the Rohingya. Likewise, the Chamber understood that the necessary conditions were met to admit the claim of all private prosecutions to become parties to the process, concluding that they possessed the required standing (legitimación)[140].

The Chamber also resolved that—according to a report submitted by the ICC Prosecutor's Office—the investigation underway before the ICC does not concern the same criminal conduct as this case—which was committed entirely within the territory of Myanmar where the ICC lacks jurisdiction—therefore, the principle of non bis in idem is not violated; that is, it does not duplicate the investigation but rather complements it.

In turn, in the resolution, the judges stated that they did not ignore the circumstances pointed out in the first instance regarding the difficulties entailed in the inquiry and trial of events occurring in a geographically distant country, with a different language and culture. However, they also understood that the existence of collaborative mechanisms for the collection of evidence—such as those of the United Nations—cannot fail to be weighed, as they, in principle, facilitate the complex task. Furthermore, these circumstances should not be an obstacle given the gross human rights violations being addressed, the international obligation to carry out at least a preliminary investigation that accounts for the harmful acts, and the inaction of other States[141].

In **December 2021**, the prosecutor in the case presented the **indictment** (requerimiento de instrucción), thereby initiating criminal action by identifying the potential responsible parties, specifying the scope of the process, and proposing various evidentiary measures aimed at setting the investigation in motion[142].

In this manner, the investigation continued to progress through the evidence-gathering stage, and since **June 7, 2023**, the private prosecution organized and facilitated the in-person **testimony** of seven Rohingya

[140] Fiscales.gob.ar, Public Prosecutor's Office, Institutional Communication Directorate, In line with the opinion of Assistant Attorney General José Luis Agüero Iturbe: The Buenos Aires Federal Court ordered the investigation of the complaint regarding crimes against humanity in Myanmar, 2021: https://www.fiscales.gob.ar/fiscalias/la-camara-federal-portena-ordeno-investigar-la-denuncia-sobre-crimenes-de-lesa-humanidad-en-myanmar/ Europa Press, Argentina will investigate the Rohingya genocide through universal jurisdiction, according to complainants, 2021: https://www.europapress.es/internacional/noticia-argentina-investigara-genocidio-rohingya-jurisdiccion-universal-denunciantes-20211128184951.html

[141] Ibidem.

[142] Fiscales.gob.ar, Prosecutor's Offices Section - Crimes Against Humanity, Public Prosecutor's Office, International arrest warrants requested for a former President, a former State Counsellor, and 23 officials and military personnel from Myanmar for genocide and crimes against humanity committed in that country, 2024: https://www.fiscales.gob.ar/lesa-humanidad/solicitan-la-captura-internacional-de-un-expresidente-una-ganadora-del-premio-nobel-de-la-paz-y-de-23-funcionarios-y-militares-de-myanmar-por-genocidio-y-crimenes-de-lesa-humanidad-cometidos-en-ese-p/?utm_source=chatgpt.com

survivors[143]. These hearings —with their guarantees of security and psychological support, in addition to successfully addressing the logistical challenges of double translation— signified a historic event that allowed victims of the 2017 genocide to participate directly in a judicial process for the first time and interact personally with the prosecution and the court. This was an empowering act, making it possible for them to raise their voices, especially for women victims of violence.

In addition to the hearings, **other evidentiary measures** were carried out; among them, requests were sent to the social platform Meta —formerly Facebook— to share files and information related to hate speech against the Rohingya population —which to date have not been answered— and relevant evidentiary elements were exchanged with the UN Independent Investigative Mechanism for Myanmar (hereinafter IIMM).

The prosecutor assessed that satellite imagery obtained during the evidentiary stage, IIMM reports, and first-hand accounts from victims corroborated the widespread and systematic practice of deliberate and selective destruction, primarily by fire, in Rohingya-populated areas in three districts during the so-called "clearance operations" of 2017. Likewise, he considered that the Myanmar government's strategy seemed to respond to the objective of altering the ethnic composition of Rakhine State, reducing Muslim influence in the early stages and then eliminating them completely.

Among the **proven facts**, it was demonstrated that men and boys were forced into forced labor—30 to 50 people were chosen daily for this, and many did not return—that at least 392 villages—40% of all settlements in the area—were totally or partially destroyed, and that birth control was imposed on the population. Furthermore, the prosecutor in the case stated that those killed by these actions “would have numbered more than 10,000” and pointed out that “although it is difficult to specify figures, [the] Prosecutor's Office has lists of specific victims, identified from witness accounts, indicating the date of death, the way they were killed and, in many cases, who the perpetrators were”.

Another issue to highlight from the **fiscal report** is the reflection on the initial allusions of the first instance, recalling that military justice is not an authorized jurisdiction to investigate and punish those responsible for crimes against humanity according to international standards. In this regard, in his opinion, **the prosecutor classified the facts under the categories of genocide and crimes against humanity**[144].

[143] Página/12, Rohingya witnesses testify in Argentina about alleged war crimes in Myanmar, Op. Cit.
[144] Fiscales.gob.ar, Prosecutor's Offices Section - Crimes Against Humanity, Public Prosecutor’s Office, Institutional Communication Directorate, Submission by Federal Prosecutor Guillermo Marijuán: International arrest warrants requested for a former President, a former State Counsellor, and 23 officials and military personnel from Myanmar for genocide and crimes against humanity committed in that country, 2024:

The completion of these proceedings, in addition to sustaining the indictments, allowed for progress with the request for international arrest warrants for the defendants for the purpose of summoning them to provide inquiry statements.

Consequently, in **June 2024**, prosecutor Guillermo Marijuán —due to the offenses being non-bailable— requested the court to issue **international arrest warrants** against 25 Myanmar military and political authorities, both current and former, for the crimes of genocide—for the first time in history—and crimes against humanity committed against the Rohingya population between 2012 and 2018, to then proceed to their inquiry hearings.

Federal Judge María Servini de Cubría granted the request, issuing —on **February 13, 2025**— what was the first international arrest warrant for the aforementioned facts, including the Commander-in-Chief of the Armed Forces, Min Aung Hlaing; the Vice-Commander-in-Chief of the Defense Services, Soe Win; the former commander of the Western Command, Maung Maung Soe; the former president from the 2016-2018 period, Htin Kyaw; and the former State Counsellor, Aung San Suu Kyi.[145].

It is worth noting the importance of the procedural progress this case has seen, given how extremely distant the reference to Myanmar actually is for Argentina —where, unlike other cases such as that of Spain, there are no migratory links nor any other type of link that facilitates the work of the private prosecution and public authorities— and the complexities in the procedure that this has implied. This effectively highlights what the Chamber mentioned in this case: that universal jurisdiction does not —or should not— have limitations due to distance, history, culture, or language.[146].

ON OTHER COMPLAINTS FILED BEFORE THE ARGENTINE FEDERAL JUSTICE SYSTEM

Among the numerous complaints filed before the federal criminal courts of Argentina by virtue of the principle of universal jurisdiction, it is necessary to highlight some that have had a significant international impact. Therefore, this section will mention several of them.

➢ In **2005**, a private prosecution (querella) was filed under the principle of universal jurisdiction for crimes against humanity and genocide in relation to the persecution of those practicing the spiritual discipline

https://www.fiscales.gob.ar/lesa-humanidad/solicitan-la-captura-internacional-de-un-expresidente-una-ganadora-del-premio-nobel-de-la-paz-y-de-23-funcionarios-y-militares-de-myanmar-por-genocidio-y-crimenes-de-lesa-humanidad-cometidos-en-ese-p/

[145] Ibidem.

[146] Julieta Mira, The principle of universal jurisdiction in Argentina: the criminal prosecution of Franco's crimes and the persecution of the Rohingya people, Op. Cit.

"Falun Gong" in the People's **Republic of China**. In this case, after four years of investigation, Federal Court No. 9 ordered the international capture of former Chinese leader Jiang Zemin in 2009[147]. However, one month later, said order was canceled, and the case was closed almost immediately. This decision was subsequently confirmed by the Federal Court of Appeals in December 2010, on the grounds that similar facts were being investigated in Spain. This latter ruling by the Chamber was appealed, and on April 17, 2013, the Argentine Court of Cassation ordered the reopening of the case, pointing out the lack of analysis regarding the criteria for applying the invoked guarantee[148].

➢ On **August 6, 2013**, fourteen victims and two associations filed a complaint before the Argentine justice system for crimes of genocide and crimes against humanity committed between 1954 and 1989 against the civilian population, including the **Aché indigenous community**, within the framework of Alfredo Stroessner's dictatorship in **Paraguay**. The complaint was filed in the National Federal Criminal and Correctional Court No. 5 of Buenos Aires, presided over by Judge Norberto Oyarbide. In 2014, the Aché Native Federation of Paraguay (FENAP) joined the case, representing the communities affected by the repression and forced displacement suffered during the stronismo. The presiding judge sent letters rogatory to Paraguay requesting information on open cases in the country related to those same facts. The Paraguayan State, in an initial lack of cooperation, refused to respond to the letter rogatory. Nevertheless, following various recommendations from international organizations, after more than a year, Paraguay responded to the judicial request and, after several exchanges of information, the State publicly expressed its willingness to advance the investigation of stronista crimes in its territory as a sign of formal commitment to the fight against impunity and to prevent the progress of proceedings in a foreign jurisdiction[149].

➢ On **August 29, 2014**, the first complaint and request for detention based on universal jurisdiction was filed in the Argentine federal justice system —Federal Prosecutor's Office No. 1 of the city of Córdoba— against **five high-ranking authorities of the State of Israel**: Prime Minister Benjamin Netanyahu; Foreign Minister Avigdor Lieberman; Defense Minister Moshe Yaalon; the Chief of the Army, General Benny Gantz; and the Vice President of Parliament, Moshe Feiglin. The complaint was filed by Sergio Ortiz, a member of the Commission in Homage to the Disappeared and

[147] Bénédict De Moerloose, Máximo Castex, Universal Jurisdiction. Law and practice in Argentina. Report | April 2025, page 9, Op. Cit.
[148] Ibidem.
[149] Aitor Martínez Jiménez, Manuel Miguel Vergara Céspedes, International Work Group for Indigenous Affairs (IWGIA) and the Baltasar Garzón International Foundation (FIBGAR), Universal Jurisdiction as an instrument for the protection of indigenous peoples. A practical guide for human rights defenders, Copenhagen, 2015: https://fibgar.es/wp-content/uploads/2022/10/0718_JURISDICCION_UNIVERSAL_2.pdf

Popular Martyrs and of the Liberation Party, for war crimes and crimes against humanity committed in Gaza between July 8 and August 26, 2014, against the Palestinian population during the ceasefire, in a final military offensive known as "Operation Protective Edge"[150].

In September 2017, prior to Benjamin Netanyahu's visit to Buenos Aires —invited by then-President Mauricio Macri— the complainants filed an expansion of their complaint. In it, they requested that the case —stagnant until then— be moved forward, that a testimonial statement be taken from the Argentine priest Jorge Hernández, who was in the Gaza Strip in charge of a church bombed in 2014, and that Benjamin Netanyahu be summoned to testify at the Attorney General's Office (Procuración General) or at the Israeli Embassy itself.[151].

To this was later added the filing of a complaint in the province of Buenos Aires by lawyer Carlos Slepoy, together with human rights organizations and lawyers from the American Association of Jurists (AAJ), against officials of the Israeli Government for crimes against humanity and genocide committed during the same military operation[152]. This **second complaint** was supported by both Palestinian and Israeli citizens who denounced the attacks carried out in their name by the State of Israel. This was also directed against the Israeli political and military leadership: Prime Minister Benjamin Netanyahu, Foreign Minister Avigdor Lieberman, Defense Minister Moshe Yaalon, the Chief of the Israeli Army General Benny Gantz, and Moshe Feiglin, Vice President of the Israeli Parliament and ideologue of the extermination plan in Gaza[153].

➢ Another significant complaint was the one filed on **June 8, 2021**, by the president of the Armenian National Council (CNA) —Alfonso Tabakian— and the Organization of Argentine-Armenian Lawyers (OLAA) to investigate alleged war crimes and crimes against humanity committed by the **Azerbaijani Army** against the **population of Artsakh** in the 2020 war —initiated by Azerbaijan on September 27, 2020, and known as the 44-Day War[154].

[150] Diario Perfil, Argentines file the first lawsuit against Israel for "genocide" in Gaza, 2014: https://www.perfil.com/noticias/internacional/argentinos-presentan-la-primera-querella-contra-israel-por-genocidio-en-gaza-20140906-0065.phtml?

[151] Resumen Latinoamericano, Criminal complaint against Netanyahu expanded on the occasion of his upcoming visit to Argentina, 2017: https://www.resumenlatinoamericano.org/2017/08/30/amplian-denuncia-penal-contra-netanyahu-con-motivo-de-su-proxima-visita-a-argentina/?

[152] CEAQUA, Carlos Slepoy announces the filing of a lawsuit against Israel in Argentine courts, 2014: https://www.ceaqua.org/carlos-slepoy-anuncia-la-presentacion-de-una-querella-contra-israel-en-los-tribunales-argentinos/

[153] Irene Vázquez Serrano, The principle of universal jurisdiction, Op. Cit. Público, "Only universal justice can stop Israel", 2014: https://www.publico.es/internacional/podra-pararse-israel-justicia-universal.html

[154] Diario Armenia, A complaint is filed in Argentina to investigate war crimes committed by Azerbaijan during the Artsakh war, 2021: https://www.diarioarmenia.org.ar/presentan-una-denuncia-en-argentina-para-investigar-los-crimenes-de-guerra-de-azerbaiyan-en-la-guerra-de-artsaj/

The complaint detailed the commission of homicides, mutilations, torture, cruel, inhuman, and degrading treatment against prisoners of war and civilians, forced displacement and attacks against the civilian population, desecration of corpses, and destruction of cultural heritage by Army officials. Among those reported are Azerbaijani soldiers—some identified—, the President of Azerbaijan, Ilham Aliyev, Prime Minister Ali Asadov, Defense Minister Zakir Hasanov, Foreign Minister Jeyhun Bayramov, and Chief of General Staff Najmeddin Sadykov, among other officials. Furthermore, it highlighted the competence of the Argentine jurisdiction due to the lack of exercise of criminal jurisdiction in the State of Azerbaijan, as well as in other international tribunals[155]. Said complaint was filed in the National Federal Criminal and Correctional Court No. 11, presided over by Judge Marcelo Martínez de Giorgi.

On November 8, 2022, the complainants presented an expansion of the complaint to investigate war crimes and crimes against humanity committed by the Azerbaijani Army during the attacks and invasion against Armenia on September 12 of that same year—in violation of the Tripartite Agreement between Azerbaijan, Armenia, and Russia for a ceasefire signed on November 9, 2020, to end military actions[156].

➤ Likewise, one of the most relevant recent complaints filed in the Argentine federal criminal courts was the one made on **April 15, 2024**, by members of the Ukrainian NGO The Reckoning Project along with a Ukrainian citizen—whose identity remains confidential—for war crimes, based on the torture this citizen alleges to have been subjected to by **Russian** troops within the framework of the invasion of **Ukraine**[157].

The lawyers in the case have stated that this complaint targets officials who managed the detention center in the occupied southern zone of Ukraine—where the Ukrainian complainant alleges he was illegally detained between mid and late 2022—for utilizing electrocution and illegal imprisonment as forms of torture, as well as his former work supervisor, whom he accuses of facilitating the aggression.

Furthermore, the complainants presented alleged testimonies from other persons held in the same detention center that support the accusations, as well as findings from United Nations experts on similar torture practices in centers, including the one involved[158]. At this stage, the Argentine court must

[155] Ibidem.
[156] Diario Armenia, Armenian organizations expanded a complaint against Azerbaijan before Argentine courts for war crimes, 2022: https://www.diarioarmenia.org.ar/organizaciones-armenias-ampliaron-una-denuncia-contra-azerbaiyan-ante-la-justicia-argentina-por-crimenes-de-guerra/
[157] El País, A complaint for torture by Russian military personnel in Ukraine reaches Argentine courts, 2024: https://elpais.com/argentina/2024-04-17/una-denuncia-por-torturas-de-militares-rusos-en-ucrania-llega-a-los-tribunales-argentinos.html
[158] Ibidem.

decide whether or not to accept the complaint, and until that moment, it has been decided that the complaint will not be made public. If accepted, it could be the first case concerning war crimes by Russian troops filed outside of Europe and the United States.

➢ Also noteworthy is the recent complaint for crimes against humanity and genocide filed by the Victims International foundation and supported by the Simon Wiesenthal Center against the **high command of the Hamas organization** and any member of said force who participated in the attack on Israeli territory on October 7, 2023, in which approximately 1,200 civilians and another 300 soldiers were murdered[159].

In it, they are reported for homicide, kidnapping, sexual abuse, serious injuries, and torture—committed even against minors—in the context of an attack plan against the Jewish people. Additionally, the complaint places special emphasis on the competence of the Argentine jurisdiction based on the passive nationality of the victims, given that 24 citizens of Argentine origin were taken as hostages—out of a total of 240—within the framework of this event[160]. The case is filed in Federal Court No. 11 of Judge Julián Ercolini, with the intervention of Prosecutor Carlos Rívolo.

➢ The latest complaint filed before the Argentine justice system based on the principle of universal jurisdiction was on **December 16, 2025**, in which a **group of Iranian survivors**, together with Argentine lawyer Máximo Castex and the Iran Human Rights Documentation Center (IHRDC), with support from the Atlantic Council's Strategic Litigation Project, filed a complaint[161] —the first in the world filed for these facts—in Argentina based on the principle of universal jurisdiction, for crimes against humanity against the authorities of **Iran**, for the acts of repression that began with the "Woman, Life, Freedom" protests in September 2022[162].

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[159] Infobae, Crimes committed by Hamas in Israel reported at Comodoro Py; calls made to investigate the terrorist group, 2024: https://www.infobae.com/judiciales/2024/02/02/denunciaron-en-comodoro-py-los-crimenes-que-cometio-hamas-en-israel-y-reclamaron-investigar-a-la-agrupacion-terrorista/

[160] Ibidem.

[161] Iran Human Rights Documentation Center (IHRDC), IHRDC files a lawsuit in Argentina for crimes against humanity committed in Iran during the "Woman, Life, Freedom" protests, December 17, 2025: https://iranhrdc.org/ihrdc-presenta-una-querella-en-argentina-por-la-comision-de-crimenes-de-lesa-humanidad-en-iran-durante-las-protestas-mujer-vida-libertad/

[162] In September 2022, Mahsa Amini, a 22-year-old Iranian woman, was intercepted and arrested by the Morality Police for not wearing the veil correctly. That day, she was transferred to the Kasra Hospital in Tehran with signs of torture, where she died three days later under police custody. The death of Mahsa Amini sparked massive protests against decades of inequality and widespread repression, under the slogan "Woman, Life, Freedom." These were suppressed with the unlawful use of force, executions—with more than 500 deaths of protesters—and thousands of arbitrary detentions, followed by torture, sexual violence, and other abuses to extract "confessions" or as a form of punishment. Since then, Iranian authorities have intensified the use of the death penalty as a tool for political repression. In December 2025, the protests continued, and the repression, as well as the human rights situation in Iran, is considered the worst since 1979. In: Amnesty International, Mahsa (Jina) Amini in Iran: what happened and why her death ignited "Woman, Life, Freedom", 2025: https://www.es.amnesty.org/en-que-estamos/blog/historia/articulo/la-muerte-de-mahsa-amini-en-iran-que-fue-lo-que-sucedio/; Friedrich Naumann Foundation, The Iranian Women's Cry for Freedom, December 27,

Among the direct victims are Kosar Eftekhari and Mersedeh Shahinkar, who report that the security forces of the Islamic Republic shot them at close range, causing irreversible injuries to their vision; and Mahsa Piraei, whose mother—Minoo Majidi—was murdered by the security forces of the Islamic Republic. The complaint alleges that high-ranking officials of the Iranian intelligence services, the armed forces, the police, and the Islamic Revolutionary Guard Corps (IRGC), as well as other officials, are responsible for the crimes against humanity of gender-based persecution, murder, torture, and other inhumane acts, such as severe ocular injuries and blindness. In addition to the direct evidence provided, the complaint relied on reports from the United Nations Independent International Fact-Finding Mission on Iran.

This case is of great international relevance, not only for representing a path of accountability for Iranian victims given the impossibility of obtaining justice in their country, but also for the thousands of victims in the region who yearn to end impunity, such as the women and girls of Afghanistan, who since August 2021 have been victims of serious crimes against humanity and a structural system of segregation that has totally excluded them from public life, characterized as gender apartheid[163].

In this context, Argentine justice operators will have the opportunity not only to reaffirm the conviction that justice knows no borders, but also to highlight the importance of the mandatory incorporation of a gender perspective, in a transversal manner and with an intersectional approach, at all stages of the proceedings carried out under the principle of universal jurisdiction, recognizing the specific ways in which serious international crimes affect women and persons with diverse gender identities.

CHALLENGES AND FINAL REFLECTIONS

From what has been developed in the preceding sections, it is evident that Argentina has become, over the course of recent years, the regional center for the judicial practice of Universal Jurisdiction, with numerous impactful cases that are developing an increasingly detailed jurisprudence.

2024: https://www.freiheit.org/es/argentina-brasil-paraguay-y-uruguay/el-grito-de-libertad-de-las-mujeres-iranies; UN - Human Rights Council, The Human Rights Council adopts a resolution extending the mandates of the Fact-Finding Mission and the Special Rapporteur on Iran and calls for an urgent investigation into human rights violations in Iran in the context of the protests that began on December 28, 2025, January 23, 2026: https://www.ohchr.org/en/media-advisories/2026/01/human-rights-council-adopts-resolution-extending-mandates-fact-finding; UN - News, The Government of Iran continues to intensify its efforts to restrict the rights of women and girls, March 24, 2025: https://news.un.org/es/story/2025/03/1537241

[163] FIBGAR, The lawsuit filed in Argentina against Iranian authorities: a historic opportunity to reaffirm universal jurisdiction with a gender perspective, by Federica Carnevale, February 16, 2026: https://jurisdiccionuniversal.org/?p=4370

From the aforementioned cases, it can be observed that Argentina presents a **heterogeneous variety of instances**, whether referring to the identity of the victims, the chronology, the location, or the scope of the crimes. Likewise, the country has been a pioneer in many investigations as it —due to its characteristics and the variant of universal jurisdiction applied— is the one chosen by many complainants in the first instance. In this way, the Argentine case is the first of universal jurisdiction in relation to what happened in Myanmar, as well as for the Venezuelan matter, among many others.

Despite this, the preceding analysis also reveals that, of the complaints filed in the country, few have translated into oral and public trials. We see that, even in the majority, different judicial disputes have been carried out so that the cases may initiate and the representatives of the Public Prosecutor's Office (Ministerio Público Fiscal) can continue with the investigations, mainly due to the issue of the subsidiarity of universal jurisdiction, the competence of the Argentine judiciary in relation to passive and active subjectivity, non bis in idem, and even the long-settled debate on intervention in the affairs of third States.

In this same sense, it is concerning that current guidelines within the National Attorney General's Office (Procuración General de la Nación)—included in the previously mentioned Resolution PGN No. 76/24—could reinforce these barriers and reframe an extraterritorial competence that departs from the pure variant that has characterized the position of the Argentine State regarding the reception and validity of the principle of universal jurisdiction and the unrestricted respect for human rights. This is because, **since Argentina does not have a national law regulating universal jurisdiction**, the procedural interpretive criteria are subject to the consideration of the actors—judges and prosecutors—who carry out the processes.

These technical debates are, furthermore, reinforced by the **political complexity** of the cases. One of the main issues is the increase in high-profile investigations involving former rulers of the countries where the crimes were committed or even those who are still in the exercise of their functions. In those cases, immunity as a prohibition for the exercise of universal jurisdiction is regularly a central debate in the proceedings. In relation to this, even part of the doctrine believes that arrest warrants attempting to circumvent these immunities run the risk of undermining this valuable tool[164]. Likewise, other **material complexities** are added to this, often related to the country's lack of links with the complainants' countries of origin, the

[164] Alejandro Chehtman, The status of Universal Jurisdiction in Latin America and Argentina's role in the regional context, Workshop: Universal Jurisdiction in Argentina. Challenges and lessons in the fight against impunity, Gioja Institute and School of Law, University of Buenos Aires, 2024: https://www.youtube.com/live/l18ue4Gs1o0?si=M7nOXg2-MXD9srLl

difficulty in obtaining evidence, the lack of resources, as well as the lack of international cooperation, both from the public sector and, to an even greater extent, from the private sector[165].

Moreover, in many of the cases where the procedural stage of investigation has indeed been overcome toward the instruction phase, we see that the private prosecutions and the judiciary encounter new **obstacles at the moment of evidentiary practice**. In cases where geographical distance makes the physical presence of victims, defendants, and witnesses complex, the innovation of magistrates has often clashed with controversies over the possible risks of hearings via teleconference. Furthermore, despite the fact that the actors in the process —private prosecution, public prosecutor's office, and judges— constantly perform an admirable "handcrafted" work to circumvent these difficulties, the consequences this has on concrete cases, for example, in terms of the duration of the proceedings, are indisputable.

Likewise, in cases where Argentine prosecutors and private prosecutions have achieved the advancement of the trial and arrest warrants have been presented —with the consequent judicial disposition— the lack of available resources the country has when other local jurisdictions refuse to cooperate is also revealed. This has led to the fact that, to date, the capture of any defendant has not been achieved. Therefore, for now, these progress steps appear more symbolic than effective.

Another element to highlight in these processes is the **time factor**. As denoted by the prior study, most cases take years to overcome the investigation stage and—except for the recent case of Venezuela—the processes in which arrest warrants are held have been in the Argentine federal judicial system for more than a decade. From this factual reality, it is translated that speed in the procedure and, consequently, the principle of procedural economy, are experiencing difficulties. This implies not only a drain on judicial resources but also a great toll on the victims, many of whom do not live to see the results of the processes they initiated. Despite this, it is a reality that since political will in relation to these processes does not occur overnight, the times of universal jurisdiction are not the times of other processes, nor human times. Therefore, the doctrine often affirms that one must learn to have patience and let them occur in their own time, that they settle and make their own steps[166].

Even considering all these aspects, Argentina has become a **beacon of justice** for many people who encounter various impediments to obtaining it in local forums. The possibility for many victims to be heard by a magistrate for the first time has implied, in itself, a redress much greater than what they

[165] Máximo Castex, From the case against Francoism to the Colombian case. Experiences and lessons learned, Op. Cit.
[166] Alberto Zuppi, On lessons from past experiences and challenges of current cases, Op. Cit.

could have imagined had they not ventured into remote jurisdictions. Furthermore, recent resolutions for international captures have signified a historic step in the process of reparation and non-repetition.

It should also be reaffirmed that all these advances could not have been a reality without the active and committed participation of the **private prosecutions** throughout all these years, of the **human rights organizations of the countries of origin** —grassroots organizations that are a fundamental support in accompanying the victims during the process— and of **international organizations**. All these actors —often accompanied by the prosecutor's offices— have been the ones who insisted even after numerous dismissals by instruction judges, managing to get the Federal Chambers to reverse those resolutions. Even, as many specialists affirm, today there is an evident dynamic interaction between the actions of the private prosecutions —who learn from past experiences and make their actions increasingly efficient—[167] and judicial resolutions, which renders their work essential for the purposes of consolidating justice in this type of process[168].

In this way, just as the numerous existing obstacles are mentioned, it is also necessary to emphasize the many judges of the country who have demonstrated through their actions how neither language, nor distance, nor a diverse culture are obstacles at the time of their intervention, based on the importance of the rights at stake and in the face of the inaction of other States. And, in that sense, it should be underscored that in all cases—even those that must later be archived—preliminary investigations have been carried out and the reported events have been delved into, fulfilling the duty that international law and the ultimate goal of justice demand. In this manner, the country's judiciary has also maintained continuous diplomatic communication with the ICC and other States to ensure that the continuity of national efforts does not duplicate preceding investigations, but rather—where applicable—complements others in progress.

Furthermore, in the practice of the **pure variant** of the principle since its origins, Argentine courts have developed a vast jurisprudence that has expanded the annals of the global judiciary. In that way, it has involved great theoretical-conceptual advances in the doctrine and, therefore, an important contribution to the recognition of these crimes by the universal conscience, in the global search for the end of impunity at the root of justice. In this way, likewise, these processes are profoundly changing the world of international politics and national policies, within the political-cultural development of

[167] Máximo Castex, From the case against Francoism to the Colombian case. Experiences and lessons learned, Op. Cit.
[168] Ibidem.

individuals and societies as a whole, generating various impacts that go beyond the mere criminal process[169].

Thus, as evidenced, universal jurisdiction constitutes a **fundamental tool**, even more so in a regional and global context where violations of international human rights law and international humanitarian law are on the rise. Within this reality, Argentina has established itself as one of the pioneer countries in this way of delivering justice. In this sense, systematizing strategies to overcome the obstacles presented to the actors of the process is indispensable, as is clarifying the scope of universal jurisdiction in the international sphere[170].

Due to the importance of this tool, and in the face of the advancement of local agendas oriented toward the discredit of human rights struggles and the attack on the institutions that ground the international order, it is essential to open a broad debate on the different aspects to be updated and challenges presented to universal jurisdiction processes. And it is necessary to make the whole of societies a part of this, so that these mechanisms are effectively known and can be protected, as well as utilized by a greater number of people as instruments for access to justice and the fight against impunity.

[169] Julieta Mira, *Ante un proceso que ha cambiado el panorama político y cultural: desafíos locales y regionales*, Óp. Cit.
[170] Xavier Philippe, *Los principios de jurisdicción universal y complementariedad: su interconexión*, Óp. Cit.

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¡Thank you!

Thank you for taking the time to read this report. If you have any questions or wish to discuss our findings further, please do not hesitate to get in touch.

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